

HOUSE JOURNAL

SEVENTIETH LEGISLATURE, REGULAR SESSION

PROCEEDINGS

EIGHTIETH DAY — FRIDAY, MAY 29, 1987

The house met at 2:45 p.m. and was called to order by the speaker.

The roll of the house was called and a quorum was announced present (Record 474).

Present — Mr. Speaker; Agnich; Aikin; Arnold; Barton; Beauchamp; Berlanga; Betts; Blackwood; Blair; Burnett; Cain; Campbell; Carriker; Carter; Cavazos; Ceverha; Clark; Clemons; Colbert; Collazo; Connelly; Cooper; Craddick; Criss; Cuellar, H.; Cuellar, R.; Culberson; Danburg; Delco; Denton; Dutton; Earley; Eckels; Edge; Edwards; Evans, C.; Evans, L.; Finnell; Garcia; Gavin; Geistweidt; Gibson; Givens; Glossbrenner; Granoff; Grusendorf; Guerrero; Hackney; Haley; Hammond; Harris, C.; Harris, J.; Harrison; Heflin; Hightower; Hilbert; Hill, A.; Hill, P.; Hinojosa; Hollowell; Holzheuser; Horn; Hudson, D.; Hudson, S.; Hunter; Hury; Johnson, C.; Johnson, S.; Jones; Kubiak; Kuempel; Lancy; Larry; Leonard; Lewis, R.; Lucio; Luna, A.; Luna, G.; McDonald; McKinney; McWilliams; Madla; Marchant; Martinez; Melton; Millsap; Morales; Moreno, A.; Moreno, P.; Oakley; Ovard; Parker; Patrick; Patronella; Patterson; Pennington; Perez; Perry; Pierce; Polumbo; Price; Rangel; Repp; Richardson; Riley; Roberts; Robinson; Robnett; Rodriguez; Rudd; Russell; Saunders; Schlueter; Schoolcraft; Seidlits; Shaw; Shea; Shelley; Shine; Smith, A.; Smith, R.; Smith, T.; Smithee; Staniswalis; Stiles; Sutton; Tallas; Taylor; Telford; Thompson, G.; Thompson, S.; Toomey; Uher; Valigura; Vowell; Waldrop; Wallace; Warner; Waterfield; Watkins; Watson; Whaley; Williamson; Willis; Willy; Wilson; Wolens; Wright; Yost.

BILLS AND RESOLUTIONS SIGNED BY THE SPEAKER

The speaker signed in the presence of the house, after giving due notice thereof, the following enrolled bills and resolutions:

HB 876, HB 914, HB 935, HB 943, HB 959, HB 975, HB 991, HB 1010, HB 1079, HB 1190, HB 1356, HB 1364, HB 1384, HB 1488, HB 1552, HB 1614, HB 1617, HB 1632, HB 1642, HB 1653, HB 1710, HB 1746, HB 1758, HB 1787, HB 1820, HB 1865, HB 1911, HB 1960, HB 1977, HB 2012, HB 2031, HB 2050, HB 2079, HB 2151, HB 2165, HB 2182, HB 2187, HB 2278, HB 2308, HB 2351, HB 2400, HB 2466, HB 2514, HCR 230, HJR 2

SB 1517 - POSTPONED

The speaker postponed consideration of SB 1517 until 4 p.m. today.

LEAVES OF ABSENCE GRANTED

On motion of Representative Hammond, and by unanimous consent, all members who were granted leaves of absence on the previous legislative day were granted leaves for this legislative day.

RULES SUSPENDED

Representative Hammond moved to suspend all necessary rules in order to take up and consider at this time, on third reading and final passage, the bills on the local and consent calendars which were considered on the previous legislative day.

The motion prevailed without objection.

LOCAL AND CONSENT BILLS CALENDAR ON THIRD READING

The following bills which were considered on second reading on the previous legislative day on the local and consent bills calendar were laid before the house for third reading, and passed by a voice vote: (Members registering votes are shown following bill number)

BILLS REMOVED BY OBJECTIONS

The speaker announced that the following bills were removed from the local and consent bills calendar by objections: **SB 152, SB 784, SB 785, SB 1373, SB 1486, SB 1521**

SB 1449

HB 1699

SB 163

SB 236 (Hollowell - no)

SB 249 (Patterson and Hilbert - no)

SB 498

SB 552

SB 604 (Patterson and Telford - no)

SB 605

SB 666 (Telford and Patterson - no)

SB 726

SB 977

SB 1038

SB 1043

SB 1066

SB 1077

SB 1100

SB 1115

SB 1131

SB 1163

SB 1300

SB 1341

SB 1357

SB 1421

SB 1446

SB 1448**SB 1452****SB 1454****SB 1473**

The following bills which were considered on second reading on the previous legislative day on the local and consent bills calendar were laid before the house, read third time, and passed by (Record 475): (Members registering votes and the results of the vote are shown following bill number) 147 Yeas, 0 Nays, 1 Present, not voting.

Yeas — Agnich; Aikin; Arnold; Barton; Beauchamp; Betts; Blackwood; Blair; Burnett; Cain; Campbell; Carriker; Carter; Cavazos; Ceverha; Clark; Clemons; Colbert; Collazo; Connelly; Cooper; Craddick; Criss; Cuellar, H.; Cuellar, R.; Culberson; Danburg; Delco; Denton; Dutton; Earley; Eckels; Edge; Edwards; Evans, C.; Evans, L.; Finnell; Garcia; Gavin; Geistweidt; Gibson; Givens; Glossbrenner; Granoff; Grusendorf; Guerrero; Hackney; Haley; Hammond; Harris, C.; Harris, J.; Harrison; Heflin; Hightower; Hilbert; Hill, A.; Hill, P.; Hinojosa; Hollowell; Holzheuser; Horn; Hudson, D.; Hudson, S.; Hunter; Hury; Johnson, C.; Johnson, S.; Jones; Kubiak; Kuempel; Laney; Larry; Leonard; Lewis, R.; Lucio; Luna, A.; Luna, G.; McDonald; McKinney; McWilliams; Madla; Marchant; Martinez; Melton; Millsap; Morales; Moreno, A.; Moreno, P.; Oakley; Ovard; Parker; Patrick; Patronella; Patterson; Pennington; Perez; Perry; Pierce; Polumbo; Price; Rangel; Repp; Richardson; Riley; Roberts; Robinson; Robnett; Rodriguez; Rudd; Russell; Saunders; Schlueter; Schoolcraft; Seidlits; Shaw; Shea; Shelley; Shine; Smith, A.; Smith, R.; Smith, T.; Smithee; Staniswalis; Stiles; Sutton; Tallas; Taylor; Telford; Thompson, G.; Thompson, S.; Toomey; Uher; Valigura; Vowell; Waldrop; Wallace; Warner; Waterfield; Watkins; Watson; Whaley; Williamson; Willy; Wilson; Wolens; Wright; Yost.

Present, not voting — Mr. Speaker(C).

Absent — Berlanga; Willis.

SB 1429 (147-0-1)**HB 2605 (147-0-1)****SB 1521 (147-0-1)****SB 161 (Patterson, Laney, Rudd, and Finnell - no) (143-4-1)****SB 223 (147-0-1)****SB 262 (147-0-1)****SB 277 (Patterson - no) (146-1-1)****SB 497 (147-0-1)****SB 632 (147-0-1)****SB 646 (147-0-1)****SB 691 (147-0-1)****SB 753 (147-0-1)****SB 792 (147-0-1)****SB 841 (147-0-1)****SB 868 (147-0-1)****SB 947 (Patterson - no) (146-1-1)****SB 1036 (147-0-1)****SB 1068 (147-0-1)****SB 1069 (147-0-1)****SB 1273 (147-0-1)**

SB 1309 (147-0-1)
SB 1331 (147-0-1)
SB 1332 (147-0-1)
SB 1382 (Patterson - no) (146-1-1)
SB 1409 (Patterson - no) (146-1-1)
SB 1420 (147-0-1)
SB 1425 (147-0-1)
SB 1426 (147-0-1)
SB 1435 (147-0-1)
SB 1436 (147-0-1)
SB 1444 (Hilbert and Arnold - no) (145-2-1)
SB 1478 (147-0-1)
SB 1479 (Repp and Carter - no) (145-2-1)
SB 1487 (147-0-1)
SB 1525 (147-0-1)
SB 744 (147-0-1)
SB 1154 (147-0-1)
SB 1453 (147-0-1)

On motion of Representative Hammond, and by unanimous consent, the captions of all senate bills passed on the local and consent calendars were ordered amended to conform to the body of the bills.

BILLS SIGNED BY THE SPEAKER

The speaker signed in the presence of the house, after giving due notice thereof, the following enrolled bills:

HB 578, HB 570, HB 471, HB 363, HB 360, HB 353, HB 339, HB 683, HB 655, HB 631, HB 624, HB 617, HB 824, HB 788, HB 782, HB 723, HB 843

HR 743 - ADOPTED

The speaker laid before the house the following privileged resolution:

By Granoff:

HR 743

BE IT RESOLVED by the House of Representatives of the State of Texas, That Rule 14, Section 9(a)(4), Rules of the House of Representatives, 70th Legislature, 1987, is suspended, as provided by House Rule 14, Section 9(f), to enable the house to the extent described in this resolution to permit the conference committee appointed to adjust the differences between the house and senate versions of S.B. No. 245, relating to the operations and continuation of the Texas Board of Corrections, to successfully conclude the committee's deliberations, by authorizing the conferees to consider and take action by adding five appropriately numbered sections to read as follows:

(1) SECTION _____. Title 108, Revised Statutes, is amended by adding Article 6166g-3 to read as follows:

Art. 6166g-3. ACQUISITION OF REAL PROPERTY. The Texas Board of Corrections may acquire real property through purchase or through the acceptance of a gift, grant, or donation for a prison site.

(2) SECTION _____. Title 108, Revised Statutes, is amended by adding Article 6166g-4 to read as follows:

Art. 6166g-4. LEASE-PURCHASE AND INSTALLMENT CONTRACTS.

Sec. 1. The Texas Board of Corrections may contract with the commissioners courts of counties to utilize, lease-purchase, purchase on an installment contract,

or otherwise acquire secure correctional facilities that are financed and constructed under authorization of the county and managed by the Texas Department of Corrections.

Sec. 2. Any lease-purchase, installment contract, or similar agreement entered into by the Texas Board of Corrections is subject to review by the attorney general, as provided for by H.B. 2514, Acts of the 70th Legislature, Regular Session, 1987, and to review and approval by the Bond Review Board, as provided for by S.B. 1027, Acts of the 70th Legislature, Regular Session, 1987, notwithstanding the amount or the length of term of the lease-purchase agreement.

(3) SECTION _____. Section 8, Article 42.09, Code of Criminal Procedure, is amended to read as follows:

Sec. 8. (a) A county that transfers a defendant to the Department of Corrections under this Article shall deliver to the director of the department:

(1) a copy of the judgment entered pursuant to Article 42.01 of this code completed on a standardized felony judgment form described by Section 4 of that Article[-as amended];

(2) a copy of any order revoking probation and imposing sentence pursuant to Section 8 of Article 42.12 of this code, [as amended,] including any amounts owed for restitution, fines, and court costs completed on a standardized felony judgment form described by Section 4 of Article 42.01 of this code; [and]

(3) a written report that states the nature and the seriousness of each offense and that states the citation to the provision or provisions of the Penal Code or other law under which the defendant was convicted;

(4) a copy of the victim impact statement, if one has been prepared in the case under Article 56.03 of this code;

(5) a statement as to whether there was a change in venue in the case and, if so, the names of the county prosecuting the offense and the county in which the case was tried;

(6) a copy of the record of arrest for each offense;

(7) information regarding the criminal history of the defendant;

(8) a copy of the indictment or information for each offense; and

(9) a checklist sent by the department to the county and completed by the county in a manner indicating that the documents required by this subsection and Subsection (c) of this section accompany the defendant.

(b) The Department of Corrections shall not take a defendant into custody under this Article until the director receives the documents required by Subsections [Subsection] (a) and (c) of this section.

(c) A county that transfers a defendant to the Department of Corrections under this Article shall also deliver to the director of the department any presentence investigation report, probation revocation report, [or] psychological or psychiatric evaluation of the defendant, and available social or psychological background information relating to the defendant, and may deliver to the director any additional information upon which the judge or jury bases the punishment decision.

(d) The Department of Corrections shall make documents received under Subsections (a) and (c) of this section available to the Board of Pardons and Paroles on the request of the board or its representative.

(e) A county is not required to deliver separate documents containing information relating to citations to provisions of the Penal Code or other law and to changes of venue, as otherwise required by Subsections (a)(3) and (a)(5) of this Article, if the standardized felony judgment form described by Section 4 of Article 42.01 of this code is modified to require that information.

(f) Except as provided by Subsection (g) of this section, the county sheriff is responsible for ensuring that documents and information required by this section

accompany defendants sentenced by district courts in the county to terms of confinement in the Texas Department of Corrections.

(g) If the presiding judge of the administrative judicial region in which the county is located determines that the county sheriff is unable to perform the duties required by Subsection (f) of this section, the presiding judge may impose the duties on:

- (1) the district clerk; or
- (2) the prosecutor of each district court in the county.

(4) SECTION _____. Out of the funds appropriated to the Texas Department of Corrections in Senate Bill 1, 69th Legislature, 3rd Called Session 1985, the department is authorized, effective immediately, to transfer any unexpended balances in any program item to enter into contracts with private vendors under Article 6166g-2, Revised Statutes.

(5) SECTION _____. Title 108, Revised Statutes, is amended by adding Article 6166g-5 to read as follows:

Art. 6166g-5. EMPLOYEES; LIMITED LAW ENFORCEMENT POWERS. (a) The director of the Texas Department of Corrections or his designee may authorize employees of the department to prevent the commission of felonies and detain persons suspected of committing felonies. An employee acting under authority granted by the director has the same powers and duties as does a peace officer under the laws of this state, except that the employee may not act without receiving express orders from the director or his designee, and may exercise those powers and perform those duties throughout the state but only during duty hours.

(b) The department may allow employees who are granted law enforcement authority under this article to assist peace officers in any county of the state if the assistance is requested and if the department determines that the assistance will not jeopardize the safety and security of the department and its personnel. An employee who assists a peace officer in the performance of his duties has the same powers and duties as does the officer requesting assistance.

(c) An employee of the department is expressly prohibited from enforcing the laws of this state relating to the prevention of misdemeanors and the detention of persons who commit misdemeanors, including laws regulating traffic and the use of state highways, unless the employee is specifically requested to enforce those laws by a peace officer under Subsection (b) of this article.

(d) Employees described by Subsection (a) of this article may not be considered peace officers for any purposes other than those specified under this article and are not required to be certified by the Texas Commission on Law Enforcement Officer Standards and Education.

The resolution was adopted without objection.

HB 43 WITH SENATE AMENDMENT

Representative Horn called up with senate amendment for consideration at 11:00 a.m.

HB 43, A bill to be entitled An Act relating to the sale of certain mixtures of gasoline and alcohol; providing penalties.

Representative Horn moved that the house not concur in the senate amendment and that a conference committee be requested to adjust the differences between the two houses on the bill.

The motion prevailed without objection.

HB 43 - APPOINTMENT OF CONFERENCE COMMITTEE

The speaker announced the appointment of the following conference committee, on the part of the house, on **HB 43**: Horn, chair; Harrison, Waterfield, McWilliams, and D. Hudson.

HB 56 WITH SENATE AMENDMENT

Representative S. Johnson called up with senate amendment for consideration at this time,

HB 56, A bill to be entitled An Act relating to the use of victim testimony and police records of arrest at parole hearings.

On motion of Representative S. Johnson, the house concurred in the senate amendment to **HB 56**.

HB 56 - TEXT OF SENATE AMENDMENT

COMMITTEE AMENDMENT NO. 1

Amend **HB 56** by deleting SECTION 2 and renumbering subsequent SECTIONS accordingly.

HB 258 WITH SENATE AMENDMENT

Representative T. Smith called up with senate amendment for consideration at this time,

HB 258, A bill to be entitled An Act relating to the age at which minors accused of certain offenses under the Alcoholic Beverage Code must be accompanied by a parent or legal guardian in court.

On motion of Representative T. Smith, the house concurred in the senate amendment to **HB 258**.

HB 258 - TEXT OF SENATE AMENDMENT

AMENDMENT NO. 1

Amend **HB 258** by adding an appropriately numbered section thereto as follows and renumbering remaining sections as appropriate:

SECTION ____ Section 106.09, Alcoholic Beverage Code, is amended by adding Subsection (d) to read as follows:

(d) The fact that a person is 18, 19 or 20 years of age is not a ground for refusal of an original or renewal permit or license issued under Chapters 35 or 73 of this code, provided that such a person to whom a permit or license is issued may carry out the activities authorized by those chapters only while in the actual course and scope of the person's employment.

HB 373 WITH SENATE AMENDMENT

Representative Hackney called up with senate amendment for consideration at this time,

HB 373, A bill to be entitled An Act relating to the adoption of the Revised Uniform Reciprocal Enforcement of Support Act.

Representative Hackney moved that the house not concur in the senate amendment and that a conference committee be requested to adjust the differences between the two houses on the bill.

The motion prevailed without objection.

HB 373 - APPOINTMENT OF CONFERENCE COMMITTEE

The speaker announced the appointment of the following conference committee, on the part of the house, on **HB 373**: Hackney, chair; T. Smith, Lucio, McDonald, and Melton.

HB 662 WITH SENATE AMENDMENT

Representative Glossbrenner called up with senate amendment for consideration at this time,

HB 662, A bill to be entitled An Act relating to the requirement that contracts with the state or a political subdivision of the state contain a detailed trench construction plan.

On motion of Representative Glossbrenner, the house concurred in the senate amendment to **HB 662**.

HB 662 - TEXT OF SENATE AMENDMENT

AMENDMENT NO. 1

Amend **HB 662** by striking Sections 3 and 4 and adding the following in lieu thereof:

SECTION 3. Subsection 2(b) of Article 2368a, TEX. REV. CIV. STAT., is amended to read as follows:

(b) The competitive sealed bidding procedure as provided herein shall be used for the award of all contracts subject to the provisions of this section, except that in the case of high technology procurements the city may follow the competitive sealed proposal procedure provided in Subsection (c) of this section.

Whenever the competitive sealed bidding procedure applies to a proposed contract, notice of the time and place when and where such a contract shall be let shall be published in such city once a week for two (2) consecutive weeks prior to the time set for letting such contract, the date of the first publication to be at least fourteen (14) days prior to the date set for letting said contract; and said contract shall be let to the lowest responsible bidder. In determining who is a responsible bidder, the governing body may take into account the safety record of the bidder, or the firm, corporation, partnership, or institution represented by the bidder, or anyone acting for such firm, corporation, partnership or institution, provided, however, that the governing body has adopted a written definition and criteria for accurately determining the safety record of a bidder, has given notice to prospective bidders, in the bid specifications, that the safety record of a bidder may be considered in determining the responsibility of that bidder and, provided further, that such determinations are not arbitrary and capricious. The governing body shall have the right to reject any and all bids, and if the contract is for the construction of public works, then the successful bidder shall be required to give a good and sufficient bond in the full amount of the contract price, for the faithful performance of such contract, executed by some surety company authorized to do business in this state in accordance with the provisions of Article 5160, Revised Statutes, and the amendments thereto. However, the city in making any contract calling for or requiring the expenditure or payment of less than \$100,000 may, in lieu of the bond requirement, provide in the contract that no money will be paid to the contractor

until completion and acceptance of the work by the city. If there is no newspaper published in such city, then the notice of letting such contract shall be given by causing notice thereof to be posted at the city hall for (14) days prior to the time of letting such contract. Trade secrets and confidential information contained in the competitive sealed bids shall not be open for public inspection.

SECTION 4. Section 5 of Article 2368a.3, TEX. REV. CIV. STAT., is amended to read as follows:

Sec. 5. A governmental entity shall have the right to reject any and all bids. Contracts covered by this Act shall be awarded to the lowest, responsible bidder, but a contract may not be awarded to a bidder who is not the lowest bidder unless prior to the award each lower bidder is given notice of the proposed award and is given an opportunity to appear before the governing body of the governmental entity or the designated representative of the governing body and present evidence concerning the bidder's responsibility. In determining who is a responsible bidder, the governing body may take into account the safety record of the bidder, or the firm, corporation, partnership, or institution represented by the bidder, or anyone acting for such firm, corporation, partnership or institution, provided, however, that the governing body has adopted a written definition and criteria for accurately determining the safety record of a bidder, has given notice to prospective bidders, in the bid specifications, that the safety record of a bidder may be considered in determining the responsibility of that bidder and, provided further, that such determinations are not arbitrary and capricious.

SECTION 5. Section 7 of Article 2368a.5, TEX. REV. CIV. STAT., is amended to read as follows:

Sec. 7. (a) The officer in charge of opening the bids shall present them to the commissioners court in session. The court shall award the contract to the responsible bidder who submits the lowest and best bid, or the court shall reject all bids and publish a new notice.

(b) In cases where two responsible bidders submit the lowest and best bid, the commissioners court shall decide between the two by drawing lots in a manner prescribed by the county judge.

(c) A contract may not be awarded to a bidder who is not the lowest dollar bidder meeting specifications unless, before the award, each lower bidder is given notice of the proposed award and is given an opportunity to appear before the commissioners court and present evidence concerning the lower bidder's responsibility. In determining who is a responsible bidder, the commissioners court may take into account the safety record of the bidder, or the firm, corporation, partnership, or institution represented by the bidder, or anyone acting for such firm, corporation, partnership or institution, provided, however, that the commissioners court has adopted a written definition and criteria for accurately determining the safety record of a bidder, has given notice to prospective bidders, in the bid specifications, that the safety record of a bidder may be considered in determining the responsibility of that bidder and, provided further, that such determinations are not arbitrary and capricious.

SECTION 6. Subsection 3.11(e) of Article 601b, TEX. REV. CIV. STAT., is amended to read as follows:

(e) Award of Contract. The commission shall award contracts to the bidder submitting the lowest and best bid conforming to the specifications required. Complying with the specified time limit for submission of written data, samples, or models on or before bid opening time is essential to the materiality of a bid, provided, however, that the commission shall have the authority to waive this provision if the failure to comply is beyond the control of the bidder. In determining who is the lowest and best bidder, the commission may take into account the safety record of the bidder, or the firm, corporation, partnership, or institution represented

by the bidder, or anyone acting for such firm, corporation, partnership or institution, provided, however, that the commission has adopted a written definition and criteria for accurately determining the safety record of a bidder, has given notice to prospective bidders, in the bid specifications, that the safety record of a bidder may be considered in determining the lowest and best bidder and, provided further, that such determinations are not arbitrary and capricious. In determining who is the lowest and best bidder, in addition to price, the commission shall consider:

- (1) the quality, availability, and adaptability of the supplies, materials, equipment, or contractual services, to the particular use required;
- (2) the number and scope of conditions attached to the bid;
- (3) the ability, capacity, and skill of the bidder to perform the contract or provide the service required;
- (4) whether the bidder can perform the contract or provide the service promptly, or within the time required, without delay or interference;
- (5) the character, responsibility, integrity, reputation, and experience of the bidder;
- (6) the quality of performance of previous contracts or services;
- (7) the previous and existing compliance by the bidder with laws relating to the contract or service;
- (8) any previous or existing noncompliance by the bidder with specifications requirements relating to time of submission of specified data such as samples, models, drawings, certificates, or other information;
- (9) the sufficiency of the financial resources and ability of the bidder to perform the contract or provide the service; and
- (10) the ability of the bidder to provide future maintenance, repair parts, and service for the use of the subject of the contract.

SECTION 7. This Act takes effect September 1, 1987.

SECTION 8. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended.

HB 826 WITH SENATE AMENDMENT

Representative Morales called up with senate amendment for consideration at this time,

HB 826, A bill to be entitled An Act relating to the offense of failure to identify oneself to a peace officer.

On motion of Representative Morales, the house concurred in the senate amendment to **HB 826**.

HB 826 - TEXT OF SENATE AMENDMENT

CSHB 826, A bill to be entitled An Act relating to the offense of failure to identify oneself to a peace officer.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 38.02, Penal Code, is amended to read as follows:

Sec. 38.02. FAILURE TO IDENTIFY [~~AS—WITNESS~~]. (a) A person commits an offense if he intentionally refuses to report or give [~~gives a false report of~~] his name, [~~and~~] residence address, or date of birth to a peace officer who has lawfully arrested the person [~~stopped him~~] and requested the information.

(b) A person commits an offense if he reports or gives a false or fictitious name, residence address, or date of birth to a peace officer who has lawfully arrested

the person or who has requested the information from a person that the peace officer has good cause to believe is a witness to a criminal offense.

(c) In this section, "fugitive from justice" means a person for whom a valid arrest warrant has been issued by a magistrate of this state, if the warrant has not been executed.

(d) Except as provided by Subsection (e) of this section, an offense under this section is a Class C misdemeanor.

(e) If it is shown on the trial of an offense under this section that the defendant was a fugitive from justice at the time of the offense or that the defendant has been previously convicted of an offense under this section, the offense is a Class B misdemeanor. [An offense under this section is a Class C misdemeanor.]

SECTION 2. (a) The change in law made by this Act applies only to an offense committed on or after the effective date of this Act. For purposes of this section, an offense is committed before the effective date of this Act if any element of the offense occurs before the effective date.

(b) An offense committed before the effective date of this Act is covered by the law in effect when the offense was committed, and the former law is continued in effect for this purpose.

SECTION 3. This Act takes effect September 1, 1987.

SECTION 4. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended.

HB 858 WITH SENATE AMENDMENTS

Representative McWilliams called up with senate amendments for consideration at this time,

HB 858, A bill to be entitled An Act relating to prohibiting students from smoking or using tobacco products.

Representative McWilliams moved that the house not concur in the senate amendments and that a conference committee be requested to adjust the differences between the two houses on the bill.

The motion prevailed without objection.

HB 858 - APPOINTMENT OF CONFERENCE COMMITTEE

The speaker announced the appointment of the following conference committee, on the part of the house, on **HB 858**: McWilliams, chair; Stiles, Rudd, Cavazos, and Oakley.

LEAVE OF ABSENCE GRANTED

The following member was granted leave of absence for the remainder of today because of important business in the district:

Rodriguez on motion of Beauchamp.

HB 941 WITH SENATE AMENDMENT

Representative Schlueter called up with senate amendment for consideration at this time,

HB 941, A bill to be entitled An Act relating to an extension of the temporary increase in the state sales and use tax rate.

Representative Schlueter moved that the house not concur in the senate amendment and that a conference committee be requested to adjust the differences between the two houses on the bill.

Representative A. Luna, as a substitute motion, moved to concur in the senate amendment to **HB 941**.

A record vote was requested.

The motion to concur was lost by (Record 476): 51 Yeas, 94 Nays, 1 Present, not voting.

Yeas — Aikin; Barton; Betts; Blair; Burnett; Cain; Carriker; Cavazos; Colbe; Collazo; Criss; Cuellar, H.; Cuellar, R.; Danburg; Denton; Dutton; Edge; Edward; Evans, L.; Garcia; Gavin; Glossbrenner; Granoff; Guerrero; Hackney; Hinojos; Hury; Larry; Lewis, R.; Lucio; Luna, A.; Luna, G.; McDonald; McKinney; Madla; Martinez; Melton; Moreno, A.; Moreno, P.; Patronella; Perez; Polumb; Price; Rangel; Sutton; Thompson, G.; Wallace; Warner; Watkins; Watson; Williamson.

Nays — Agnich; Arnold; Beauchamp; Berlanga; Blackwood; Campbell; Carter; Ceverha; Clark; Clemons; Connelly; Cooper; Craddick; Culberson; Delco; Earle; Eckels; Evans, C.; Finnell; Geistweidt; Gibson; Givens; Grusendorf; Hale; Hammond; Harris, C.; Harris, J.; Harrison; Hightower; Hilbert; Hill, A.; Hill, J.; Hollowell; Holzheuser; Horn; Hudson, D.; Hudson, S.; Hunter; Johnson, C.; Johnson, S.; Jones; Kubiak; Kuempel; Laney; Leonard; Marchant; Mills; Morales; Oakley; Ovard; Parker; Patrick; Patterson; Pennington; Perry; Pier; Repp; Richardson; Riley; Roberts; Robinson; Robnett; Rudd; Russell; Saunde; Schluter; Schoolcraft; Shaw; Shea; Shelley; Shine; Smith, A.; Smith, J.; Smith, T.; Smithee; Staniswalis; Stiles; Tallas; Taylor; Telford; Thompson; Toomey; Uher; Valigura; Vowell; Waldrop; Waterfield; Whaley; Willis; Wilson; Wolens; Wright; Yost.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Rodriguez.

Absent — Heflin; McWilliams; Seidlits.

The motion to not concur in senate amendments to **HB 941** and to appoint a conference committee prevailed.

HB 941 - APPOINTMENT OF CONFERENCE COMMITTEE

The speaker announced the appointment of the following conference committee, on the part of the house, on **HB 941**: Schluter, chair; Moral; Craddick, Geistweidt, and Earley.

HB 1007 WITH SENATE AMENDMENT

Representative Beauchamp called up with senate amendment consideration at this time,

HB 1007, A bill to be entitled An Act relating to the identification of vehicles owned and used by school districts and institutions of higher education; provide a criminal penalty.

On motion of Representative Beauchamp, the house concurred in the senate amendment to **HB 1007**.

HB 1007 - TEXT OF SENATE AMENDMENT**FLOOR AMENDMENT NO. 1**

Amend **HB 1007** as follows:

On line 37, insert "Further, this subsection does not apply to a motor vehicle used by a Chancellor or President of an institution of higher education." after "Procedure."

HB 1183 WITH SENATE AMENDMENTS

Representative Gibson called up with senate amendments for consideration at this time,

HB 1183, A bill to be entitled An Act relating to the creation, duties, and powers of the Texas Agricultural Finance Authority and the development of and issuance of bonds for an agricultural financing program.

Representative Gibson moved that the house not concur in the senate amendments and that a conference committee be requested to adjust the differences between the two houses on the bill.

The motion prevailed without objection.

HB 1183 - APPOINTMENT OF CONFERENCE COMMITTEE

The speaker announced the appointment of the following conference committee, on the part of the house, on **HB 1183**: Gibson, chair; Waterfield, Staniswalis, Whaley, and Laney.

HB 1650 WITH SENATE AMENDMENT

Representative Polumbo called up with senate amendment for consideration at this time,

HB 1650, A bill to be entitled An Act relating to the effect of certain property appraisal appeals on the amount of state funding that a school district receives for public education.

On motion of Representative Polumbo, the house concurred in the senate amendment to **HB 1650**.

HB 1650 - TEXT OF SENATE AMENDMENT

CSHB 1650, A bill to be entitled An Act relating to the effect of certain property appraisal appeals.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Subchapter G, Chapter 16, Education Code, is amended by adding Section 16.258 to read as follows:

Sec. 16.258. EFFECT OF APPRAISAL APPEAL. (a) If the final determination of an appeal under Chapter 42, Tax Code, results in a reduction in the taxable value of property that exceeds five percent of the total taxable value of property in the school district for the same tax year determined under Sec. 11.86 of this code, the commissioner of education shall request the State Property Tax Board to adjust its taxable property value findings for that year consistent with the final determination of the appraisal appeal.

(b) If the district would have received a greater amount from the foundation school fund for the applicable school year using the adjusted value, the commissioner shall add the difference to subsequent distributions to the district from the foundation school fund. An adjustment does not affect the local fund assignment of any other district.

SECTION 2. Subsection (c) of Sec. 26.04, Tax Code, is amended to read as follows:

(c) An officer or employee designated by the governing body shall subtract from the total amount of property taxes imposed by the unit in the preceding year, including taxes imposed on appraised value that was reduced by the final determination of a court in an appeal under Chapter 42 of this code:

(1) the amount of taxes imposed in the preceding year to pay principal of and interest on debt of the unit and to pay lawfully incurred contractual obligations providing security for the payment of principal of and interest on bonds or other evidences of indebtedness issued on behalf of the unit by another political subdivision;

(2) the amount of taxes imposed in the preceding year on property in territory that has ceased to be a part of the unit;

(3) the amount of taxes imposed in the preceding year on taxable value that is exempt in the current year;

(4) the amount of taxes imposed in the preceding year on taxable value that is not taxable in the current year because property appraised at market value in the preceding year is required by law to be appraised at less than market value in the current year;

(5) the amount of taxes imposed in the preceding year pursuant to Subsection (d) of this section to recoup taxes lost in the year before as a result of an error or errors; and

(6) the amount of taxes imposed in the preceding year dedicated to the use of a junior college district under Section 20.48(e), Education Code.

SECTION 3. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended, and that this Act take effect and be in force from and after its passage, and it is so enacted.

COMMITTEE MEETING ANNOUNCEMENT

The following committee meeting was announced:

Conference Committee on Tort Reform, 4 p.m. today, speakers committee room.

HB 1948 WITH SENATE AMENDMENT

Representative Robnett called up with senate amendment for consideration at this time.

HB 1948, A bill to be entitled An Act relating to conflicts of interest of local public officials.

On motion of Representative Robnett, the house concurred in the senate amendment to **HB 1948**.

HB 1948 - TEXT OF SENATE AMENDMENT

CSHB 1948, A bill to be entitled An Act relating to conflicts of interest of local public officials.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Chapter 640, Acts of the 68th Legislature, Regular Session 1983 (Article 988b, Vernon's Texas Civil Statutes), is amended to read as follows:
Sec. 1. DEFINITIONS. In this Act:

(1) "Local public official" means a member of the governing body or another officer, whether elected or appointed, paid or unpaid, of any district (including a

school district), county, city, precinct, central appraisal district, transit authority or district, or other local governmental entity who exercises responsibilities beyond those that are advisory in nature.

(2) "Business entity" means a sole proprietorship, partnership, firm, corporation, holding company, joint-stock company, receivership, trust, or any other entity recognized in law.

Sec. 2. SUBSTANTIAL INTEREST. (a) A person has a substantial interest in a business entity if:

(1) the person owns ~~[interest is ownership of]~~ 10 percent or more of the voting stock or shares or of the fair market value of the business entity or owns \$5,000 ~~[ownership of \$2,500]~~ or more of the fair market value of the business entity; or

(2) funds received by the person from the business entity exceed 10 percent of the person's gross income for the previous year.

(b) A person has a substantial interest in real property if the interest is an equitable or legal ownership with a fair market value of \$2,500 or more.

(c) An interest of a person related in the first ~~[or second]~~ degree by either affinity or consanguinity to the local public official is a "substantial interest."

Sec. 3. PROHIBITED ACTS. (a) ~~A [Except as provided by Section 5 of this Act, a]~~ local public official commits an offense if he knowingly:

(1) violates Section 4 of this Act ~~[participates in a vote or decision on a matter involving a business entity in which the local public official has a substantial interest if it is reasonably foreseeable that an action on the matter would confer an economic benefit to the business entity involved];~~

(2) acts as surety for a business entity that has a contract, work, or business with the governmental entity; or

(3) acts as surety on any official bond required of an officer of the governmental entity.

(b) An offense under this section is a Class A misdemeanor.

Sec. 4. AFFIDAVIT AND ABSTENTION FROM VOTING. (a) If a local public official or a person related to that official in the first ~~[or second]~~ degree by either affinity or consanguinity has a substantial interest in a business entity or in real property ~~[that would be peculiarly affected by any official action taken by the governing body]~~, the local public official, before a vote or decision on any [the] matter involving the business entity or the real property, shall file an affidavit stating the nature and extent of the interest and shall abstain from further participation in the matter if:

(1) in the case of a substantial interest in a business entity the action on the matter will have a special economic effect on the business entity that is distinguishable from the effect on the public; or

(2) in the case of a substantial interest in real property, it is reasonably foreseeable that an action on the matter will have a special economic effect on the value of the property, distinguishable from its effect on the public.

(b) The affidavit must be filed with the official recordkeeper of the governmental entity.

(c) If a local public official is required to file and does file an affidavit under Subsection (a) of this section, that official shall not be required to abstain from further participation in the matter or matters requiring such an affidavit if a majority of the members of the governmental entity of which the official is a member is composed of persons who are likewise required to file and who do file affidavits of similar interests on the same official action.

Sec. 5. BUDGET [EXCEPTIONS]. ~~[(a) The governing body of a governmental entity may contract for the purchase of services or personal property with a business entity in which a member of the governing body has a substantial interest if the business entity is the only business entity that provides the needed~~

~~service or product within the jurisdiction of the governmental entity and is the only business entity that bids on the contract.]~~

[(b)] The governing body of any local governmental entity must take a separate vote on any budget item specifically dedicated to a contract with an entity in which a member of the governing body has a substantial interest and the affected member must abstain from that separate vote. The member who has complied with abstaining in such vote under procedures set forth in Sections 3 and 4 of this Act may vote on a final budget only after the matter in which he is concerned has been resolved. A local public official may perform an act prohibited by Section 3 of this Act if a majority of the membership of the governmental entity of which the official is a member is composed of persons who are required to file affidavits of similar interests on the official action.

Sec. 6. ~~PENALTIES. [REMOVAL FROM OFFICE. The penalties and remedies provided by this article do not limit common law remedies of tort, contract, or equity, including a suit for damages, injunction, or mandamus.]~~

(a) The finding by a court of a violation under this article does not render an action of the governing body voidable unless the measure that was the subject of an action involving conflict of interest would not have passed the governing body without the vote of the person who violated this article.

(b) This Act preempts the common law of conflict of interest as applied to local public officials defined in Section 1 of this Act.

(c) This Act is cumulative of other statutes, city charter provisions, and ordinances defining and prohibiting conflict of interest.

SECTION 2. (a) The change in the law made by this Act does not affect an offense committed under the law as it existed before the effective date of this Act. Such an offense may be prosecuted and a penalty imposed under the former law if this Act had not been enacted. The former law is continued in effect for that purpose.

(b) For the purposes of this section, an offense is committed before the effective date of this Act if any element of the offense is committed before that date.

SECTION 3. This Act takes effect September 1, 1987.

SECTION 4. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended.

HB 1957 WITH SENATE AMENDMENT

Representative Marchant called up with senate amendment for consideration at this time,

HB 1957, A bill to be entitled An Act relating to fire fighters' and police officers' civil service in cities over 10,000 population.

On motion of Representative Marchant, the house concurred in the senate amendment to **HB 1957**. (Robinson recorded voting no.)

HB 1957 - TEXT OF SENATE AMENDMENT

Amend **HB 1957** on page 2, line 27 and on page 3, line 1 by striking the words "board of three (3) physicians" and deleting the words "psychiatrists, psychologists as appropriate" and adding the words "three member board composed of a physician, a psychiatrist and a psychologist or any combination thereof appropriate".

HB 1978 WITH SENATE AMENDMENT

Representative A. Moreno called up with senate amendment for consideration at this time,

HB 1978, A bill to be entitled An Act relating to the authority of the alcoholic beverage commission to establish certain fees.

On motion of Representative A. Moreno, the house concurred in the senate amendment to **HB 1978**.

HB 1978 - TEXT OF SENATE AMENDMENT

CSHB 1978, A bill to be entitled An Act relating to the authority of the alcoholic beverage commission to establish certain fees and requiring that certain certificates be kept on file.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Amend Chapter 5, Alcoholic Beverage Code, by adding Sec. 5.50 to read as follows:

Sec. 5.50. ESTABLISHMENT OF CERTAIN FEES. (a) The commission by rule may establish reasonable fees for tasks and services performed by the commission in carrying out the provisions of this code, including fees incidental to the issuance of licenses and permits under Title 3 of this code.

(b) The commission may not increase or decrease a fee set by this code, but if a statute is enacted creating a certificate, permit or license and there is no fee established, the commission by rule may set a fee.

(c) Insofar as they relate to the levying and collection of a local fee, Sections 11.38 and 61.36 of this code do not apply to fees set by rule of the commission.

(d) A fee authorized by this section and set by rule of the commission may not exceed twenty-five dollars. Revenues from fees collected by the commission under this section shall be deposited in the general revenue fund.

SECTION 2. Section 107.7, Alcoholic Beverage Code, is amended to read as follows:

(a) A Texas resident may import not more than one quart of liquor for his own personal use without being required to hold a permit. A Texas resident may import for his own personal use not more than three gallons of wine without being required to hold a permit. A nonresident of Texas may import not more than a gallon of liquor for his own personal use without being required to hold a permit. A person importing liquor into the state under this subsection must pay the state tax on liquor and an administrative fee of 50 [25] cents and must affix the required tax stamps. No minor and no intoxicated person may import any liquor into the state. A person importing wine or liquor under this subsection must personally accompany the wine or liquor as it enters the state. A person may not avail himself of the exemptions set forth in this subsection more than once every thirty days.

(b) A person may import beer into this state for his own personal use without being required to hold a license, but may not import more than 24 twelve-ounce bottles or an equivalent quantity in any one thirty day period. He must pay the state tax on beer and an administrative fee of 50 [25] cents.

SECTION 3. Sec. 37.11, Alcoholic Beverage Code, is amended by adding subsection (e) to read as follows:

(e) No certificate of approval shall be issued unless the application is accompanied by a fee in the amount of \$25 payable to the commission. A copy of the certificate shall be kept on file in the office of the Commission.

SECTION 4. Sec. 101.67, Alcoholic Beverage Code, is amended by adding subsection (d) to read as follows:

(d) If the commission determines that the sample and label required by subsection (a) of this section comply with the provisions of this code and the rules

of the commission, the commission shall issue a certificate of approval upon receipt of a fee in the amount of \$25. A copy of the certificate shall be kept on file in the office of the commission.

SECTION 5. Chapter 109, Alcoholic Beverage Code, is amended by adding Section 109.55 to read as follows:

Sec. 109.55. CERTIFICATE. If after June 1, 1987, the certificate is filed under Section 15, Chapter 285, or Section 16, Chapter 462, Acts of the 69th Legislature, Regular Session, 1985, the contingency described by Subsection (c) of each of those sections is effective on the first day of the month following the month in which the certificate is filed.

SECTION 6. EMERGENCY. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and imperative public necessity that the constitutional rule requiring bills to be read three several days in each house be suspended, and this rule is hereby suspended and that this Act take effect and be in force from and after its passage, and it is enacted.

HB 2090 WITH SENATE AMENDMENT

Representative Criss called up with senate amendment for consideration at this time.

HB 2090, A bill to be entitled An Act relating to the management of certain unemployment compensation funds; authorizing the issuance of bonds and the increase of certain unemployment taxes.

On motion of Representative Criss, the house concurred in the senate amendment to **HB 2090**. (Craddick recorded voting no.)

HB 2090 - TEXT OF SENATE AMENDMENT

CSHB 2090, A bill to be entitled An Act relating to payment of unemployment compensation benefits and the management of certain unemployment compensation funds; authorizing the issuance of bonds and the increase of certain unemployment taxes.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS

SECTION 1. Section 3, Texas Unemployment Compensation Act (Article 5221b-1, Vernon's Texas Civil Statutes), is amended by adding Subsection (b-1) to read as follows:

(b-1) Notwithstanding Subsection (b)(2) of this section, after any increase effective on October 1, 1986, the Commission may not implement an increase in the maximum weekly benefit amount until October 1, 1989. The Commission shall calculate the maximum weekly benefit amounts for claims filed on or after October 1, 1989, without consideration of any increase in the annual average weekly wage for manufacturing production workers in this state for the years 1986 and 1987.

SECTION 2. Section 9c(a), Texas Unemployment Compensation Act (Article 5221b-7c, Vernon's Texas Civil Statutes), is amended to read as follows:

(a) The Advance Interest Trust Fund is established. The fund is a trust fund in the custody of the State Treasurer and may be used without appropriation by the Governor for the purpose of paying interest incurred on advances from the federal Unemployment Trust Fund, incurred on any bonds issued to reduce or avoid federal advances to the unemployment compensation fund, and to repay temporary transfers of surplus cash which may be made between this fund and other funds. Income from investment of the fund shall be deposited to the credit of the fund. If the amount of the fund exceeds the amount required to pay interest incurred on advances and on any bonds issued to reduce or avoid federal advances to the unemployment compensation fund, the Governor shall transfer all or part of

surplus to the unemployment compensation fund for the payment of benefits. If the Governor, upon the advice of the Commission, determines that funds in the unemployment compensation fund will be depleted at the time payment on an advance from the federal Unemployment Trust Fund is due, and that depletion of the funds will cause the loss of some portion of the credit received by employers against their federal unemployment tax rate, or if the Governor determines that payment of interest on a federal loan can be avoided by keeping the balance of the unemployment compensation fund positive, the Governor may authorize the Commission to transfer money from the Advance Interest Trust Fund to the unemployment compensation fund.

SECTION 3. Section 9c(d), Texas Unemployment Compensation Act (Article 5221b-7c, Vernon's Texas Civil Statutes), is amended to read as follows:

(d) If the Commission finds after January 1 of a year that an interest payment on a federal advance, or on any bonds issued to reduce or avoid federal advances to the unemployment compensation fund, will be due ~~on September 30 of that year~~ and that the estimated amount necessary to make that payment will not otherwise be available, a separate and additional tax is levied, in addition to other taxes, on each employer eligible for an experience tax rate. The Commission shall set the rate of the additional tax in an amount sufficient to ensure timely payment of interest, but not to exceed two-tenths of one percent. This rate applies ~~[rate of the additional tax is one-tenth of one percent, applied]~~ to the same wage base to which the employer's unemployment tax applies for ~~[the first two calendar quarters of]~~ that year. The tax is due on a date set by the Commission, and revenue from the tax shall be deposited to the credit of the Advance Interest Trust Fund. The tax is subject to the same penalty for late payment as the unemployment tax.

SECTION 4. The Texas Unemployment Compensation Act (Article 5221b-1 et seq., Vernon's Texas Civil Statutes) is amended by adding Section 9d to read as follows:

Sec. 9d. REPLENISHMENT OF FUND THROUGH BONDS. (a) The purpose of this section is to provide a method of financing the replenishment of the state's unemployment compensation fund as an alternative to borrowing or obtaining advances from the federal unemployment trust fund or refinancing those loans or advances, and to provide a method through which the state may continue its unemployment compensation program at the least possible cost to the state and its employers.

(b) For the purposes of this section, "bond" means any type of obligation issued under this section, including any bond, note, warrant, revenue, or bond anticipation note or other evidence of indebtedness.

(c) The Commission is authorized to issue, sell, and deliver bonds in the name of the Commission before January 1, 1990, in an amount determined by the Commission that results in reducing or avoiding the need to borrow or obtain an advance under Section 1201, Social Security Act (42 U.S.C. Section 1321), or any similar federal legislation, or in an amount necessary to refinance any borrowing or advance previously made by the Commission. The Commission shall authorize the issuance, sale, and delivery of bonds by resolution. In such a resolution, the Commission must make an affirmative finding that the issuance of bonds for the purposes established in this section results in a savings to the state and its employers. Bonds issued under this section must mature not later than five years from the date of issuance.

(d) The Commission shall provide for the payment of the principal of the bonds, any redemption premiums, the interest on the bonds, and the costs attributable to the bonds being issued or outstanding. As revenue, the Commission may irrevocably pledge money received from the levy of special unemployment taxes, in addition to and separate from taxes levied or imposed elsewhere under this

Act, on each employer required to pay contributions under Section 7 of this Act, or any other money lawfully available to the Commission for that purpose. The rate of that tax or contribution shall be fixed and levied by the Commission from time to time, in addition to and separate from all other amounts fixed and levied under this Act, shall be applied uniformly to the same wage base to which the employer's general tax rate applies for that year, and shall at least be equal to the amount necessary to pay the annual debt service on any outstanding bonds, plus the administration costs associated with outstanding bonds, including trustee's and paying agent's fees and expenses, and any amounts necessary in the judgment of the Commission to enhance investor acceptance of the bonds. The Commission shall levy the tax as long as any bond or the interest on the bond is outstanding. At any time that no bond or bond interest remains outstanding, the Commission may transfer any remaining proceeds from this tax to the Advance Interest Trust Fund. All provisions of this Act concerning the levy and collection of contributions under this Act, including all penalties, are applicable to the levy and collection of the taxes and contributions authorized under this section.

(e) The legislature finds that the money representing proceeds of the tax or contribution authorized under this section, and any income from the investment of those funds, does not constitute state property. That money shall be deposited into a fund to be held in trust out of the state treasury but under the control of the state treasurer, as trustee, for the benefit of the owners of the bonds issued under this section and a class of employees whose employers pay in by virtue of a tax levied, the tax being in the nature of an excise tax. Proceeds of the tax and other money on deposit in this fund may only be applied under this section and the resolutions authorizing the bonds, and neither the state, any political subdivision of the state, nor the United States Treasury may have any prior or future claim on those proceeds. Pending use, the state treasurer may invest and reinvest the money in the fund in obligations of municipalities, counties, or other political subdivisions of any state in the United States or in investments authorized by law for state funds that the state treasurer, consistent with the resolutions authorizing the bonds, considers appropriate. Income from investment of the fund shall be credited to the fund.

(f) Bonds issued under this section do not constitute debts of this state or of any agency, political corporation, or political subdivision of this state, and are not a pledge of the faith and credit of this state or of any of those governmental entities. The bonds are payable only from revenue provided for the payment under this section. The bonds must contain a statement to the effect that:

(1) neither the state nor any agency, political corporation, or political subdivision of the state is obligated to pay the principal of or interest on the bonds except as provided by this section; and

(2) neither the faith and credit nor the taxing power of the state nor any agency, political corporation, or political subdivision of the state is pledged to the payment of the principal of, premium, if any, or interest on the bonds except as provided by this section.

(g) The state pledges and agrees with the owners of any bonds issued under this section that the state will not limit or alter the rights vested in the Commission to fulfill the terms of any agreements made with the owners, or in any way impair the rights and remedies of the owners until the bonds are fully discharged.

(h) In the resolutions authorizing the issuance of bonds, including refunding bonds, the Commission may provide for the flow of funds and the establishment and maintenance of separate accounts within the fund, including the interest and sinking account, the reserve account, and other necessary accounts, and may make additional covenants with respect to the bonds and the pledged revenues. The resolutions authorizing the issuance of bonds may also prohibit the further issuance

of bonds or other obligations payable from the pledged revenue or may reserve the right to issue additional bonds to be secured by a pledge of and payable from the revenue on a parity with or subordinate to the lien and pledge in support of the bonds being issued, and may contain other provisions and covenants as determined by the Commission.

(i) Bonds issued under this section are subject to review and approval by the attorney general in the same manner and with the same effect as provided by Chapter 656, Acts of the 68th Legislature, Regular Session, 1983 (Article 717q, Vernon's Texas Civil Statutes).

(j) Bonds may not be issued under this section unless the issuance has been reviewed and approved by the bond review board created under this subsection. The bond review board is composed of the governor, the lieutenant governor, the speaker of the house of representatives, the state treasurer, and the comptroller of public accounts. If the speaker of the house of representatives is not permitted by the constitution of this state to serve as a voting member of the board, the speaker serves as a nonvoting member of the board. The governor serves as chairman. The bond review board may adopt rules governing application for review, the review process, and reporting requirements. A member of the bond review board may not be held liable for damages resulting from the performance of the members' functions under this section. This subsection does not affect the right of the Commission to select its own bond counsel, underwriter, financial advisor, or other provider of service in connection with the issuance of bonds under this section.

(k) The Commission may issue bonds to refund all or any part of the outstanding bonds issued under this section, including matured but unpaid interest. The Commission may refund the bonds as provided by the general laws of the state for the refunding of revenue bonds.

(l) The bonds issued by the Commission, any transaction relating to the bonds, and profits made from the sale of the bonds are free from taxation by the state or by any municipality, county, special district, or other political subdivision of the state.

(m) As determined necessary by the Commission, the proceeds of the bonds, less the costs of issuance, shall be placed in the state's unemployment compensation fund and may be used for the purposes for which that fund may otherwise be used. If those net proceeds are not placed immediately in the unemployment compensation fund, they shall be held in the fund created under Subsection (e) of this section until they are transferred to the unemployment compensation fund.

(n) This section is cumulative of all laws affecting the issuance of bonds by state agencies, including Chapter 503, Acts of the 54th Legislature, 1955 (Article 717k, Vernon's Texas Civil Statutes), and the Bond Procedures Act of 1981 (Article 717k-6, Vernon's Texas Civil Statutes), but to the extent of any conflict between this section and other laws, the provisions of this section prevail. In connection with the issuance of the bonds, the Commission may exercise the powers granted to the governing body of an issuer in connection with the issuance of obligations under Chapter 656, Acts of the 68th Legislature, Regular Session, 1983 (Article 717q, Vernon's Texas Civil Statutes), to the extent consistent with this section.

(o) Payment of the bonds and the performance of official duties prescribed by this section may be enforced in the state supreme court by mandamus or other appropriate proceeding.

SECTION 5. Section 19(n), Texas Unemployment Compensation Act (Article 5221b-17, Vernon's Texas Civil Statutes), is amended to read as follows:

(n) "Wages" means all remuneration paid for personal services, including the cash value of all remuneration paid in any medium other than cash and gratuities received by any employee in the course of employment to the extent that the gratuities are considered as wages in the computation of taxes under the Federal

Unemployment Tax Act, 26 U.S.C. Sec. 3301 et seq., except that such term shall not include:

(1) That part of the remuneration paid to an individual by an employer with respect to employment during a calendar year ~~[which,]~~ after remuneration (other than remuneration referred to in the succeeding subdivisions ~~[paragraphs]~~ of this subsection) ~~[equal to Seven Thousand Dollars (\$7,000)]~~ with respect to employment has been paid to the ~~[an]~~ individual by the ~~[an]~~ employer during that ~~[any]~~ calendar year in an amount equal to:

(A) Seven Thousand Dollars (\$7,000) for calendar years before calendar year 1988;

(B) Eight Thousand Dollars (\$8,000) for calendar year 1988; and

(C) Nine Thousand Dollars (\$9,000) for calendar year 1989 and each succeeding calendar year ~~[-is paid to such individual by such employer during any such calendar year];~~

(2) The amount of any payment (including any amount paid by an employer for insurance or annuities, or into a fund, to provide for any such payment) made to, or on behalf of, an employee or any of his dependents under a plan or system established by an employer which makes provision for his employees generally (or for his employees generally and their dependents), or for a class or classes of his employees (or for a class or classes of his employees and their dependents), on account of:

(A) Retirement, or

(B) Sickness or accident disability, or

(C) Medical or hospitalization expenses in connection with sickness or accident disability, or

(D) Death;

(3) Any payment made to an employee (including any amount paid by an employer for insurance or annuities, or into a fund, to provide for any such payment) on account of retirement;

(4) Any payment on account of sickness or accident disability, or medical or hospitalization expenses in connection with sickness or accident disability, made by an employer to, or on behalf of, an employee after the expiration of six (6) calendar months following the last calendar month in which the employee worked for such employer;

(5) Any payment made to, or on behalf of, an employee or his beneficiary:

(A) From or to a trust described in Section 401(a) of the Internal Revenue Code of 1954 which is exempt from tax under Section 501(a) of said Code at the time of such payment unless such payment is made to an employee of the trust as remuneration for services rendered as such employee and not as a beneficiary of the trust, or

(B) Under or to an annuity plan which, at the time of such payment, is a plan described in Section 403(a) of the Internal Revenue Code of 1954, or

(C) Under or to a bond purchase plan which, at the time of such payment, is a qualified bond purchase plan described in Section 405(a) of the Internal Revenue Code of 1954;

(6) The payment by an employer (without deduction from the remuneration of the employee):

(A) Of the tax imposed upon an employee under Section 3101 of the Internal Revenue Code of 1954 (or the corresponding section of prior law);

(7) Remuneration paid in any medium other than cash to an employee for service not in the course of the employer's trade or business;

(8) Any payment (other than vacation or sick pay) made to an employee after the month in which he attains the age of sixty-five (65), if he did not work for the employer in the period for which such payment is made;

(9) Within any calendar year that part of an individual's remuneration from a single employer which, after the amount applicable to that calendar year under Subdivision (1) of this subsection [~~Seven Thousand Dollars (\$7,000)~~] has been paid him upon which contributions have been paid under the unemployment law of any state, is paid with respect to employment.

SECTION 6. This Act takes effect September 1, 1987.

SECTION 7. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended.

HB 2143 WITH SENATE AMENDMENT

Representative McKinney called up with senate amendment for consideration at this time,

HB 2143, A bill to be entitled An Act relating to the rights, duties, and obligations of surface owners who act as the leasing agent for certain state minerals and to the issuance of state prospecting permits for certain minerals.

On motion of Representative McKinney, the house concurred in the senate amendment to **HB 2143**.

HB 2143 - TEXT OF SENATE AMENDMENT

AMENDMENT NO. 1

Amend **HB 2143** as follows:

(1) On page 1, line 9, between "relinquishment" and "herein" insert "or agency right".

(2) On page 1, line 9, strike "so".

(3) On page 1, lines 9 and 10, strike "by the commissioner".

(4) On page 8, strike lines 7 through 15, and insert the following: "those minerals which are not subject to lease or permit under any other statute. [all minerals except:

[(1) oil and gas;

[(2) coal, lignite, sulphur, salt, and potash;

[(3) shell, sand, and gravel; and

[(4) fissionable minerals other than uranium and thorium on land sold with a reservation of minerals to the state.]]"

(5) On page 10 strike lines 4 through 7 and reletter "(f)" to "(e)" on line 8.

(6) On page 11, insert a new Section 7 before the emergency clause to read as follows:

SECTION 7. Regardless of any other legislation passed by the 70th Legislature, Regular Session, Section 4 of this bill is intended to be the sole and controlling amendment to Section 53.011, Natural Resources Code.

(7) Renumber the emergency clause as Section 8.

HB 2408 WITH SENATE AMENDMENT

Representative Shea called up with senate amendment for consideration at this time,

HB 2408, A bill to be entitled An Act relating to the hearing and determination of juror excuses and the postponement of jury service.

On motion of Representative Shea, the house concurred in the senate amendment to **HB 2408**.

HB 2408 - TEXT OF SENATE AMENDMENT**AMENDMENT NO. 1**

Amend **HB 2408** by striking everything below the enacting clause and substituting the following:

SECTION 1. Chapter 29, Code of Criminal Procedure, is amended by adding Article 29.012 to read as follows:

Art. 29.012. RELIGIOUS HOLY DAY. (a) In this article:

(1) "Religious organization" means an organization that meets the standards for qualification as a religious organization under Section 11.20, Tax Code.

(2) "Religious holy day" means a day on which the tenets of a religious organization prohibit its members from participating in secular activities, such as court proceedings.

(b) If a juror in a criminal action is required to appear at a court proceeding on a religious holy day observed by the juror, the court or the court's designee shall recess the criminal action until the next day the court is in session after the conclusion of the holy day.

(c) A juror seeking a recess must file with the court before the final selection of the jury an affidavit stating:

(1) the grounds for the recess; and

(2) that the juror holds religious beliefs that prohibit him from taking part in a court proceeding on the day for which the recess is sought.

(d) An affidavit filed under Subsection (c) of this section is proof of the facts stated and need not be corroborated.

SECTION 2. Article 35.03, Code of Criminal Procedure, is amended to read as follows:

Art. 35.03. EXCUSES

Sec. 1. Except as provided by Section 2 of this article, the [The] court shall then hear and determine excuses offered for not serving as a juror, either on a sworn statement from the juror or in person and under oath, and if the court [he] deems the excuse sufficient, the court [he] shall discharge the juror or postpone the juror's service.

Sec. 2. Under a plan approved by the commissioners court of the county in the same manner as a plan is approved for jury selection under Section 62.011, Government Code, in a case other than a capital felony case, the court's designee may hear and determine an excuse offered for not serving as a juror, either on a sworn statement from the juror or in person and under oath, and if the court's designee deems the excuse sufficient, he may postpone the juror's service.

SECTION 3. Section 62.110, Government Code, is amended by amending Subsection (b) and adding Subsection (c) to read as follows:

(b) Pursuant to a plan approved by the commissioners court of the county in the same manner as a plan is approved for jury selection under Section 62.011, Government Code, the court's designee may hear any reasonable sworn excuse of a prospective juror and release him from jury service until another day of the term.

(c) The court or the court's designee as provided by this section may not excuse a prospective juror for an economic reason unless each party of record is present and approves the release of the juror for that reason.

SECTION 4. Subchapter B, Chapter 62, Government Code, is amended by adding Section 62.112 to read as follows:

Sec. 62.112. EXCUSE OF JUROR FOR RELIGIOUS HOLY DAY. (a) In this section:

(1) "Religious organization" means an organization that meets the standards for qualification as a religious organization under Section 11.20, Tax Code.

(2) "Religious holy day" means a day on which the tenets of a religious organization prohibit its members from participating in secular activities, such as court proceedings.

(b) If a prospective juror is required to appear at a court proceeding on a religious holy day observed by the prospective juror, the court or the court's designee shall release the prospective juror from jury service entirely or until another day of the term. If the court determines that a term of a court proceeding may extend to cover a day on which a religious holy day is observed by the prospective juror, the court or the court's designee shall release the prospective juror from jury service entirely or until another day of the term.

(c) A prospective juror who seeks to be released from jury service may be required to file with the court an affidavit stating:

(1) the grounds for the release; and

(2) that the juror holds religious beliefs that prohibit him from taking part in a court proceeding on the day for which the release from jury duty is sought.

SECTION 5. Subtitle B, Title 2, Civil Practice and Remedies Code, is amended by adding Chapter 23 to read as follows:

CHAPTER 23. JUROR CONTINUANCE

Sec. 23.001. **DEFINITIONS.** In this chapter:

(1) "Religious organization" means an organization that meets the standards for qualification as a religious organization under Section 11.20, Tax Code.

(2) "Religious holy day" means a day on which the tenets of a religious organization prohibit its members from participating in secular activities, such as court proceedings.

Sec. 23.002. **RECESS.** (a) If a juror in a civil action is required to appear at a court proceeding on a religious holy day observed by the juror, the court or the court's designee shall recess the civil action until the next day the court is in session after the conclusion of the holy day.

(b) A juror seeking a recess must file with the court before the final selection of the jury an affidavit stating:

(1) the grounds for the recess; and

(2) that the juror holds religious beliefs that prohibit him from taking part in a court proceeding on the day for which the recess is sought.

(c) An affidavit filed under Subsection (b) is proof of the facts stated and need not be corroborated.

SECTION 6. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended, and that this Act take effect and be in force from and after its passage, and it is so enacted.

HB 1370 - ADOPTION OF CONFERENCE COMMITTEE REPORT

Representative Valigura submitted the following conference committee report on HB 1370:

Austin, Texas, May 26, 1987

Honorable William P. Hobby
President of the Senate

Honorable Gibson D. "Gib" Lewis
Speaker of the House of Representatives

Sirs: We, your conference committee, appointed to adjust the differences between the Senate and the House of Representatives on CSHB 1370 have met and had the same under consideration, and beg to report it back with the recommendation that it do pass in the form and text hereto attached.

Farabee
Blake
McFarland
Caperton
Harris

On the part of the Senate

Valigura
Millsap
C. Evans
C. Harris
McWilliams

On the part of the House

CSHB 1370, A bill to be entitled An Act relating to voluntary reductions of salaries of certain public employees for federal cafeteria plan benefits or for child-care expenses.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Title 110A, Revised Statutes, is amended by adding Articles 6252-3c and 6252-3d to read as follows:

Art. 6252-3c. CAFETERIA PLAN SALARY REDUCTIONS FOR COUNTY EMPLOYEES

Sec. 1. DEFINITION. In this article, "county employee" means a person who receives compensation for service performed, other than as an independent contractor, for a county, for a precinct or other unit of a county, or for a county officer acting in an official capacity.

Sec. 2. CAFETERIA PLAN PROGRAM. The commissioners court of a county by order or resolution may establish a program to provide benefits that qualifies as a cafeteria plan under Section 125 of the federal Internal Revenue Code of 1986 (26 U.S.C. Section 125) and regulations adopted under that section.

Sec. 3. SALARY REDUCTION AGREEMENTS. (a) If a commissioners court establishes a cafeteria plan program under Section 2 of this article, the court shall authorize county employees to enter into voluntary agreements with the county to reduce the periodic compensation paid the employees by the county by amounts to be used to finance benefit options provided under the cafeteria plan. An authorization under this section must be made available to all employees of the county.

(b) Amounts by which a county employee's compensation is reduced under an agreement under this section are excluded from the computation of contributions and other payments governed by federal law to the extent authorized by federal law, including withholding payments for federal income taxes and contributions to the federal old age and survivors insurance program, but are not excluded in the computation of contributions to and benefits from the Texas County and District Retirement System and other retirement programs governed by state law.

Sec. 4. RULES. The commissioners court may adopt rules, consistent with this article and federal cafeteria plan requirements, for participation in and administration of the program authorized by this article.

Art. 6252-3d. CHILD-CARE EXPENSE SALARY REDUCTIONS FOR PUBLIC EMPLOYEES

Sec. 1. DEFINITIONS. In this article:

(1) "School district" has the meaning assigned by Section 11.13(m)(2), Tax Code.

(2) "School district employee" means a person who receives compensation for service performed, other than as an independent contractor, for a school district.

(3) "State agency" means:

(A) a board, commission, department, office, or other agency that is in the executive branch of state government and that was created by the constitution or a statute of the state, including an institution of higher education as defined by Section 61.003, Education Code;

(B) the legislature or a legislative agency; or

(C) the supreme court, the court of criminal appeals, a court of appeals, or a state judicial agency.

(4) "State employee" means a person who receives compensation for service performed, other than as an independent contractor, for a state agency, or a person who is a district judge.

Sec. 2. SALARY REDUCTION AGREEMENTS FOR CHILD-CARE EXPENSES OF STATE EMPLOYEES. (a) The state may enter into an agreement with a state employee to reduce the periodic compensation paid the employee by the state by an amount to be used for the payment of child-care expenses that meet the requirements for exclusion from gross income as provided by Section 129 of the federal Internal Revenue Code of 1986 (26 U.S.C. Section 129) and regulations adopted under that section. A state employee may request an agreement under this section by filing a written request for the reduction, on a form prescribed by the comptroller of public accounts, with the payroll officer of the state agency with which the employee is employed.

(b) The comptroller of public accounts shall adopt rules for administration of the program authorized by this section, including rules designed to determine eligibility for exclusion from gross income for federal tax purposes of amounts by which a state employee's salary may be reduced.

(c) The payroll officer of a state agency having employees who are paid by warrant issued by the comptroller of public accounts shall send a copy of each request filed by an employee of the agency to the comptroller. If the comptroller determines that the request meets the requirements for exclusion from gross income for federal tax purposes, the comptroller, on behalf of the state, shall enter into an agreement with the requesting employee for the reduction and shall make payments in amounts by which the employee's compensation is reduced in the manner specified in the agreement.

(d) The payroll officer of a state agency having employees who are not paid by warrant issued by the comptroller of public accounts may enter into agreements with requesting employees of the agency and make payments in amounts by which compensation is reduced in the manner specified in the agreements, subject to applicable rules adopted by the comptroller under this section.

(e) A state employee is entitled to select the recipient of payments by which the employee's compensation is reduced under a salary reduction agreement entered into under this section.

(f) If other legislation authorizing for state employees a cafeteria plan as defined and authorized by Section 125 of the federal Internal Revenue Code of 1986 (26 U.S.C. Section 125) is enacted by the 70th Legislature to take effect not later than September 1, 1988, and if the legislation places the administrative responsibilities for the cafeteria plan with the Employees Retirement System of Texas or the governing boards of institutions of higher education, the administrative responsibilities of the comptroller of public accounts for child-care salary reduction agreements specified in this article are transferred to the Employees Retirement System of Texas or the governing boards of institutions of higher education, as applicable, on the effective date of the legislation. The Employees Retirement System of Texas or the governing boards of institutions of higher education shall make child-care salary reduction options available to state employees not later than September 1, 1988.

Sec. 3. SALARY REDUCTION AGREEMENTS FOR CHILD-CARE EXPENSES OF SCHOOL DISTRICT EMPLOYEES. The governing body of a school district may authorize school district employees to enter into agreements with the school district to reduce the periodic compensation paid the employees by the school district by amounts to be used for the payment of child-care expenses that meet the requirements for exclusion from gross income as provided by Section 129 of the federal Internal Revenue Code of 1986 (26 U.S.C. Section 129) and regulations adopted under that section. The governing body may adopt rules for participation in and administration of the program authorized by this section.

SECTION 2. Section 21.001(7), Title 110B, Revised Statutes, is amended to read as follows:

(7) "Compensation" means the base salary of a person plus longevity and hazardous duty pay and includes nonmonetary compensation, the value of which is determined by the retirement system, and amounts by which the person's salary is reduced under a salary reduction agreement authorized by Article 6252-3d, Revised Statutes, but excludes overtime pay.

SECTION 3. Section 32.201(b), Title 110B, Revised Statutes, is amended to read as follows:

(b) "Salary and wages" as used in Subsection (a) of this section means:

(1) normal periodic payments of money for service the right to which accrues on a regular basis in proportion to the service performed;

(2) career ladder payments of money authorized by Section 16.057, Education Code; ~~and~~

(3) amounts by which the member's salary is reduced under a salary reduction agreement authorized by Article 6252-3d, Revised Statutes; and

(4) amounts that would otherwise qualify as salary and wages under Subdivision (1) or (2) of this subsection but are not received directly by the member pursuant to a good faith, voluntary written salary reduction agreement in order to finance payments to a deferred compensation or tax sheltered annuity program specifically authorized by state law or to finance benefit options under a cafeteria plan qualifying under Section 125 of the United States Internal Revenue Code, if:

(A) the program or benefit options are made available to all employees of the employer; and

(B) the benefit options in the cafeteria plan are limited to one or more options that provide deferred compensation, group health and disability insurance, group term life insurance, dependent care assistance programs, or group legal services plans.

SECTION 4. Section 71.001, Title 110B, Revised Statutes, is amended by adding Subdivision (11) to read as follows:

(11) "Compensation" includes amounts by which a member's salary is reduced under a salary reduction agreement authorized by Article 6252-3d, Revised Statutes.

SECTION 5. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended, and that this Act take effect and be in force from and after its passage, and it is so enacted.

Representative Valigura moved to suspend all necessary rules and to adopt the conference committee report on **HB 1370**.

A record vote was requested.

The motion prevailed by (Record 477): 141 Yeas, 0 Nays, 2 Present, not voting.

Yeas — Agnich; Aikin; Arnold; Barton; Beauchamp; Betts; Blackwood; Blair; Burnett; Campbell; Carriker; Carter; Cavazos; Ceverha; Clark; Clemons; Collazo; Connelly; Cooper; Craddick; Criss; Cuellar, H.; Cuellar, R.; Danburg; Delco; Denton; Earley; Eckels; Edge; Evans, C.; Evans, L.; Finnell; Garcia; Gavin; Geistweidt; Gibson; Givens; Glossbrenner; Granoff; Grusendorf; Guerrero; Hackney; Haley; Hammond; Harris, C.; Harris, J.; Harrison; Heflin; Hightower; Hilbert; Hill, A.; Hill, P.; Hinojosa; Hollowell; Holzheuser; Horn; Hudson, D.; Hudson, S.; Hunter; Hury; Johnson, C.; Johnson, S.; Jones; Kubiak; Kuempel; Laney; Larry; Leonard; Lewis, R.; Lucio; Luna, A.; Luna, G.; McDonald; McKinney; McWilliams; Madla; Marchant; Martinez; Melton; Millsap; Morales; Moreno, A.; Moreno, P.; Oakley; Ovard; Parker; Patrick; Patronella; Patterson; Pennington; Perez; Perry; Pierce; Polumbo; Price; Rangel; Repp; Richardson; Riley; Roberts; Robinson; Robnett; Rudd; Russell; Saunders; Schlueter; Schoolcraft; Shaw; Shea; Shelley; Shine; Smith, A.; Smith, R.; Smith, T.; Smithee; Staniswalis; Stiles; Sutton; Tallas; Taylor; Telford; Thompson, G.; Thompson, S.; Toomey; Uher; Valigura; Vowell; Waldrop; Wallace; Warner; Waterfield; Watkins; Watson; Whaley; Williamson; Willis; Willy; Wilson; Wolens; Wright; Yost.

Present, not voting — Mr. Speaker(C); Dutton.

Absent, Excused — Rodriguez.

Absent — Berlanga; Cain; Colbert; Culberson; Edwards; Seidlits.

SJR 9 - REQUEST OF SENATE GRANTED

On motion of Representative A. Smith, the house granted the request of the senate for the appointment of a conference committee on **SJR 9**.

SJR 9 - APPOINTMENT OF CONFERENCE COMMITTEE

The speaker announced the appointment of the following conference committee, on the part of the house, on **SJR 9**: A. Smith, chair; Gibson, Laney, Telford, and Clemons.

SB 191 - REQUEST OF SENATE GRANTED

On motion of Representative C. Evans, the house granted the request of the senate for the appointment of a conference committee on **SB 191**.

SB 191 - APPOINTMENT OF CONFERENCE COMMITTEE

The speaker announced the appointment of the following conference committee, on the part of the house, on **SB 191**: C. Evans, chair; C. Harris, Toomey, Seidlits, and Hury.

SB 257 - REQUEST OF SENATE GRANTED

On motion of Representative Gibson, the house granted the request of the senate for the appointment of a conference committee on **SB 257**.

SB 257 - APPOINTMENT OF CONFERENCE COMMITTEE

The speaker announced the appointment of the following conference committee, on the part of the house, on **SB 257**: Gibson, chair; C. Evans, Guerrero, Madla, and Glossbrenner.

SB 298 - REQUEST OF SENATE GRANTED

On motion of Representative Vowell, the house granted the request of the senate for the appointment of a conference committee on **SB 298**.

SB 298 - APPOINTMENT OF CONFERENCE COMMITTEE

The speaker announced the appointment of the following conference committee, on the part of the house, on **SB 298**: Vowell, chair; P. Hill, Cooper, Barton, and Granoff.

MESSAGE FROM THE SENATE

Austin, Texas, May 29, 1987

The Honorable Speaker of the House of Representatives
House Chamber

The Honorable
Mr. Speaker:

I am directed by the Senate to inform the House that the Senate has granted the request of the House for a Conference Committee to adjust the differences between the two Houses on **HB 1912**.

The following have been appointed on the part of the Senate: Senators Santiesteban, Tejeda, Zaffirini, Brown, and Whitmire.

I am directed by the Senate to inform the House that the Senate has concurred in House Amendments to **SB 601** by: viva voce vote; **SB 1266** by: viva voce vote.

I am directed by the Senate to inform the House that the Senate has refused to concur in House Amendments to **SB 229** and requests the appointment of a Conference Committee to adjust the differences between the two Houses.

The following have been appointed on the part of the Senate: Senators Montford, Parmer, Edwards, McFarland, and Caperton.

I am directed by the Senate to inform the House that the Senate has granted the request of the House for a Conference Committee to adjust the differences between the two Houses on **HB 994**.

The following have been appointed on the part of the Senate: Senators Green, Whitmire, Lyon, Montford, and Anderson.

I am directed by the Senate to inform the House that the Senate has granted the request of the House for a Conference Committee to adjust the differences between the two Houses on **HB 685**.

The following have been appointed on the part of the Senate: Senators Parker, McFarland, Washington, Henderson, and Farabee.

I am directed by the Senate to inform the House that the Senate has passed the following:

CSHB 1514 by Pennington, relating to the types of newspapers in which municipalities, special districts and other political subdivisions publish notice.

CSHB 651 by Berlanga, relating to the regulation of dispensing opticians. (amended)

HB 650 by Kubiak, et al., relating to removal of certain obstructions in navigable. (amended)

HB 1036 by C. Evans, relating to the authority of members and employees of the Railroad Commission of Texas to have ex parte consultations and communications. (amended)

SCR 142 by Brooks, creating the Task Force on Waste Management Policy.

HCR 148 by Hinojosa, creating the interim committee on Task Force on Affordable Housing.

HB 982 by Patronella, relating to common and public nuisances.

HB 2571 by Schlueter, relating to the designation and taxation of certain areas and property of municipal utility districts. (amended)

CSHB 2556 by Campbell, relating to the name, powers, duties, authority to annex or exclude territory and the appointment of directors of the Denton County Reclamation and Road District. (amended)

HB 784 by Blackwood, relating to the representation on a county bail bond board of a county judge through a designee. (amended)

HB 2597 by Colbert, et al., relating to creation of a Texas Center for Superconductivity at the University of Houston-University Park. (amended)

HCR 227 by Taylor, declaring June 21-27, 1987, to be Texas Motor Transportation Week.

I am directed by the Senate to inform the House that the Senate has adopted the Conference Committee Report on **SB 481** by: 28 yeas, 0 nays.

I am directed by the Senate to inform the House that the Senate has adopted the Conference Committee Report on **HB 1370** by: 28 yeas, 0 nays.

Respectfully,
Betty King
Secretary of the Senate

HB 2577 - LAID ON THE TABLE SUBJECT TO CALL

Representative R. Smith moved that **HB 2577** be laid on the table subject to call.

The motion prevailed without objection.

HB 2614 ON THIRD READING

The speaker laid before the house, as postponed business, on its third reading and final passage,

HB 2614, A bill to be entitled An Act relating to the issuance of a certificate to operate a horse-drawn carriage for hire; providing a criminal penalty.

The bill was on the calendar on May 27 and was postponed until 4 p.m. The bill was not considered.

The bill was read third time.

Representative Ceverha offered the following amendment to the bill:

Amend **HB 2614** as follows:

1. Strike Sec. 3 of Article 6687d, in SECTION 1 of the bill, and substitute the following:

Sec. 3. ISSUANCE OF CERTIFICATE. (a) A certificate may be issued by a school that has been approved by the Central Education Agency.

(b) A certificate may be issued by a local governing body which has jurisdiction over the area of operation; provided that the local governing body has adopted eligibility standards for the permits.

The amendment was adopted without objection.

Representative McWilliams offered the following amendment to the bill:

Amend **HB 2614** on page 3 between lines 11 and 12 by inserting the following:

(e) This article does not apply to stagecoaches or horsedrawn vehicles used for agricultural purposes.

The amendment was adopted without objection.

HB 2614, as amended, was passed. (Patterson and Telford recorded voting no.)

SB 1514 ON SECOND READING

(Colbert - House Sponsor)

The speaker laid before the house, in lieu of **HB 2613**, on its second reading and passage to third reading,

SB 1514, A bill to be entitled An Act relating to the rate of certain county hotel occupancy taxes and to the uses of hotel tax revenue in certain counties.

The bill was read second time.

Representative Colbert offered the following amendment to the bill:

Amend **SB 1514** by striking Section 1, lines 5 through 15, and substituting the following:

SECTION 1. Section 4(b), Chapter 796, Acts of the 67th Legislature, Regular Session, 1981 (Article 2372d-8, Vernon's Texas Civil Statutes), is amended to read as follows:

(b) As to a hotel located in an incorporated city with a population of 1,200,000 or more, according to the most recent federal census, the applicable percentage is two [three] percent until January 1, 2001 [~~1984~~], and one percent on or after that date. As to any other hotel, the applicable percentage is seven percent, except that until January 1, 2001, the applicable percentage is eight percent in a county with a population of more than 2,000,000 according to the most recent federal census.

The amendment was adopted without objection.

Representative Martinez offered the following amendment to the bill:

Amend **SB 1514** as follows:

(1) On page 1, line 19, strike "Subsection (c)" and substitute "Subsections (c) and (d)".

(2) On page 2, line 26, strike "one-tenth" and substitute "15 percent".

(3) On page 2, after line 27, insert the following:

(d) A county with a population of more than 2,000,000 according to the most recent federal census shall endeavor to coordinate its promotional and advertising activities conducted under authority of Subsection (a)(4) of this section with the city having the greatest population in the county.

The amendment was adopted without objection.

SB 1514, as amended, was passed to third reading. (Hollowell and Patterson recorded voting no.)

HB 2613 - LAID ON THE TABLE SUBJECT TO CALL

Representative Colbert moved that **HB 2613** be laid on the table subject to call.

The motion prevailed without objection.

(C. Harris in the chair)

SB 515 ON SECOND READING
(Waldrop - House Sponsor)

The chair laid before the house, in lieu of **HB 989**, on its second reading and passage to third reading, the complete committee substitute for **SB 515**.

CSSB 515**A BILL TO BE ENTITLED**
AN ACT

relating to dismissal of certain misdemeanor charges on completion of a driving safety course.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 143A, Uniform Act Regulating Traffic on Highways (Article 6701d, Vernon's Texas Civil Statutes), is amended to read as follows:

Sec. 143A. DISMISSAL OF CERTAIN MISDEMEANOR CHARGES UPON COMPLETING DRIVING SAFETY COURSE. (a) When a person is charged with a misdemeanor offense under this Act, other than a violation of Section 51, committed while operating a motor vehicle, the court:

(1) in its discretion may defer proceedings and allow the person 90 days to present evidence that, subsequent to the alleged act, the person has successfully completed a defensive driver's course approved by the Texas Department of Public Safety or other driving safety course approved by the court; or

(2) shall defer proceedings and allow the person 90 days to present written evidence that, subsequent to the alleged act, the person has successfully completed a defensive driver's course approved by the Texas Department of Public Safety or another driving safety course approved by the court, if:

(A) before the answer date on the citation the person enters a plea in person or in writing of No Contest or Guilty and presents to the court an oral or written request ~~[or written motion]~~ to take a course;

(B) the person has a valid Texas driver's license or permit; ~~and~~

(C) the person's driving record as maintained by the Texas Department of Public Safety does not indicate successful completion of a driving safety course under this subdivision within the two years immediately preceding the date of the alleged offense;

(D) the person files an affidavit with the court stating that the person is not in the process of taking a course under this subdivision and has not completed a course under this subdivision that is not yet reflected on the person's driving record; and

(E) the offense charged is for an offense covered by this section other than speeding 25 miles per hour or more over the posted speed limit at the place where the alleged offense occurred.

(b) When the person complies with the provisions of Subsection (a) of this section and the evidence presented is accepted by the court, the court shall dismiss the charge, but the court may only dismiss one charge for completion of each course.

When a charge is dismissed under this section, the charge may not be part of the person's driving record or used for any purpose, but the court shall report the fact that a person has successfully completed a driving safety course and the date

of completion to the Texas Department of Public Safety for inclusion in the person's driving record. The court shall note in its report whether the course was taken under the procedure provided by Subdivision (2) of Subsection (a) of this section for the purpose of providing information necessary to determine eligibility to take a subsequent course under that subdivision. An insurer delivering or issuing for delivery a motor vehicle insurance policy in this state may not cancel or increase the premium charged the insured under the policy merely because of an offense dismissed under this section or because the insured completed a driving safety course under this section.

(c) The court may require the person requesting a driving safety course to pay a fee set by the court at an amount that does not exceed \$10 to cover the cost of administering this section. Fees collected under this subsection by a municipal court shall be deposited in the municipal treasury. Fees collected by other courts shall be deposited in the county treasury of the county in which the court is located. If the person requesting a driving safety course does not take the course, the person is not entitled to a refund of the fee required by this subsection.

SECTION 2. This Act takes effect September 1, 1987, and applies only to an offense under the Uniform Act Regulating Traffic on Highways (Article 6701d, Vernon's Texas Civil Statutes) that is committed on or after that date. An offense committed before the effective date of this Act is punishable by the law in existence at the time the offense was committed and the former law is continued in effect for that purpose. For purposes of this section an offense is committed before the effective date of this Act if any element of the offense occurs before that date.

SECTION 3. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended.

CSSB 515 was read second time.

Representative Eckels offered the following amendment to CSSB 515:

On page 1, line 12, after "court", delete ":" and insert "shall advise the defendant of his right to successfully complete a driving safety course; and"

On page 1, line 15, strike "defensive driver's" and substitute "driving safety".

On page 1, line 19, after "present", insert "a Department approved certificate of course completion".

On page 1, line 20, strike "defensive driver's" and substitute "driving safety".

On page 2, line 17, after "and", strike "the evidence presented" and substitute "a certificate of course completion approved by the Department".

On page 3, line 10, after "\$10", insert "including any special fees authorized by statute or municipal ordinance".

On page 3, line 17, insert a new subsection (d) as follows:

"(d) The department shall administer comprehensive rules and regulations governing driving safety courses, and shall place on file such rules with the secretary of state."

The amendment was adopted without objection.

Representative Waldrop offered the following amendment to CSSB 515:

Amend CSSB 515 as follows:

(1) On page 1, line 23, between "(A)" and "before", insert "on or".

(2) On page 2, line 1, strike "or written request" and substitute "request or a written request, in person or by mail,".

The amendment was adopted without objection.

Representative Richardson offered the following amendment to **CSSB 515**:

Amend **CSSB 515** as follows:

On page 2, line 17, delete "(a)" and replace with "(A)".

On page 3, line 17, add a new Section 2 as follows:

Each traffic citation or promise to appear issued for any offense to which this Act may apply shall contain a clear statement as follows: "You may be able to require that this charge be dismissed by taking a defensive driving course. However, you will lose that right if you do not provide written notice to the court on or before your appearance date of your desire to do so." If such language is not so supplied, the cited party may continue to exercise such right until so informed or until the case is otherwise disposed of.

Renumber accordingly.

The amendment was adopted without objection.

Representative G. Luna offered the following amendment to **CSSB 515**:

Amend **CSSB 515**, SECTION 1, by adding (d) as follows:

SECTION 1. (d) No person shall distribute any written information for the purpose of advertising a provider of a defensive driver's course within five hundred (500) feet of any court having jurisdiction over an offense subject to this section. This subsection does not apply to distribution of such information to a court for the purpose of obtaining approval of the course, or to advise the court of the availability of the course, or to distribution by the court. A violation of this subsection by a provider, or the provider's agent, servant, employee, or a person acting in a representative capacity for the provider, shall result in loss of the provider's status as a provider of an approved or licensed course by the Texas Department of Public Safety or other driving safety course approved by the court.

The amendment was adopted without objection.

Representative G. Luna offered the following amendment to **CSSB 515**:

Amend **CSSB 515** by substituting the following (c) for Lines 8 through 16, Page 3:

(c) The court shall require payment of a twenty dollar (\$20) fee before deferring proceedings under Subsection (a) of this section. A court collecting the fee shall send ten dollars (\$10) of each fee collected under this section to the state treasury, quarterly as other funds are collected and deposited, to the credit of the general revenue fund. Ten dollars (\$10) of each fee collected by a municipal court under this subsection, along with interest earned, shall be deposited in the municipal treasury. Ten dollars (\$10) of each fee collected by another court under this subsection, along with interest earned, shall be deposited in the county treasury of the county in which the court is located. Money deposited in a municipal or county treasury under this subsection may be used by the court that collected the money to defray expenses incurred in administering this section.

Representative Waldrop moved to table the G. Luna amendment.

The motion to table prevailed.

SB 515, as amended, was passed to third reading. (Danburg recorded voting no.)

HB 989 - LAID ON THE TABLE SUBJECT TO CALL

Representative Waldrop moved that **HB 989** be laid on the table subject to call.

The motion prevailed without objection.

BILLS AND RESOLUTIONS SIGNED BY THE SPEAKER

The chair announced that the speaker signed in the presence of the house, after giving due notice thereof, the following enrolled bills and resolutions:

HB 309, HB 306, HB 280, HB 278, HB 250, HB 235, HB 163, HB 162, HB 161, HB 147, HB 144, HB 83, HB 59, SB 342, SB 260, SB 1392, SB 1327, SB 779, SB 33, SB 919, SB 819, SB 583, SB 504, SB 473, SB 1501, SB 198, SB 177, SB 85, SJR 54, SJR 35, SCR 128, SB 1123

SB 1532 ON SECOND READING
(Wallace - House Sponsor)

The chair laid before the house, in lieu of **HB 1697**, on its second reading and passage to third reading,

SB 1532, A bill to be entitled An Act relating to competitive bidding requirements for certain hospital districts.

The bill was read second time and was passed to third reading. (Patterson, Whaley, Yost, and Hollowell recorded voting no.)

HB 1697 - LAID ON THE TABLE SUBJECT TO CALL

Representative Wallace moved that **HB 1697** be laid on the table subject to call.

The motion prevailed without objection.

HB 1922 ON SECOND READING

The chair laid before the house, as postponed business, on its second reading and passage to engrossment,

HB 1922, A bill to be entitled An Act relating to the reporting of funds collected and expended by governing boards of institutions of higher education.

The bill was on the Local and Consent Calendar on May 27 and was postponed until 9 a.m. today.

The bill was read second time.

Representative Uher offered the following amendment to the bill:

Amend **HB 1922** as follows:

(1) On page 1, line 11, by striking December 9 and substitute the following: January 1

The amendment was adopted without objection.

HB 1922, as amended, was passed to engrossment.

SJR 55 ON SECOND READING
(Stiles - House Sponsor)

The chair laid before the house, as postponed business, on its passage to third reading,

SJR 55, A joint resolution proposing a constitutional amendment providing for the issuance of general obligation bonds to finance certain local public facilities.

The resolution was read second time on May 28 and was postponed until 9 a.m. today.

Representative Schlueter offered the following amendment to the resolution:

Amend **SJR 55** by adding a new section appropriately numbered to read as follows:

SECTION 3. Section 2 of H.J.R. No. 2, 70th Legislature, Regular Session, 1987, is amended to read as follows:

Sec. 2. This proposed constitutional amendment shall be submitted to the voters at an election to be held on November 8, 1988 [~~November 3, 1987~~]. The ballot shall be printed to provide for voting for or against the proposition: "The constitutional amendment establishing an economic stabilization fund in the state treasury to be used to offset unforeseen shortfalls in revenue."

The amendment was adopted.

A record vote was requested.

SJR 55, as amended, passed to third reading by (Record 478): 92 Yeas, 53 Nays, 1 Present, not voting.

Yeas — Aikin; Arnold; Barton; Beauchamp; Berlanga; Betts; Blair; Burnett; Cain; Carriker; Cavazos; Clark; Clemons; Colbert; Collazo; Cooper; Cuellar, H.; Cuellar, R.; Danburg; Delco; Denton; Dutton; Earley; Edge; Edwards; Evans, C.; Evans, L.; Finnell; Garcia; Gavin; Gibson; Glossbrenner; Granoff; Guerrero; Hackney; Haley; Harris, C.(C); Harrison; Hightower; Hilbert; Hinojosa; Hudson, S.; Hury; Johnson, C.; Kubiak; Laney; Larry; Leonard; Lewis, R.; Lucio; Luna, A.; Luna, G.; McDonald; McKinney; McWilliams; Madla; Martinez; Melton; Millsap; Morales; Moreno, A.; Moreno, P.; Oakley; Parker; Patronella; Perez; Perry; Polumbo; Price; Rangel; Richardson; Robnett; Russell; Saunders; Schlueter; Shaw; Smith, T.; Staniswalis; Stiles; Sutton; Telford; Thompson, G.; Thompson, S.; Vowell; Wallace; Warner; Watkins; Watson; Whaley; Williamson; Willis; Wilson.

Nays — Agnich; Blackwood; Campbell; Carter; Ceverha; Connelly; Craddick; Culberson; Eckels; Geistweidt; Givens; Grusendorf; Hammond; Harris, J.; Heflin; Hill, A.; Hill, P.; Hollowell; Holzheuser; Hudson, D.; Hunter; Johnson, S.; Jones; Kuempel; Marchant; Ovard; Patrick; Patterson; Pennington; Pierce; Repp; Riley; Roberts; Robinson; Rudd; Schoolcraft; Shea; Shelley; Shine; Smith, A.; Smith, R.; Smithee; Tallas; Taylor; Toomey; Uher; Valigura; Waldrop; Waterfield; Willy; Wolens; Wright; Yost.

Present, not voting — Mr. Speaker.

Absent, Excused — Rodriguez.

Absent — Criss; Horn; Seidlits.

SB 1517 ON THIRD READING
(R. Smith - House Sponsor)

The chair laid before the house, as postponed business, on its third reading and final passage,

SB 1517, A bill to be entitled An Act relating to the jurisdiction of the 361st District Court and to the supplemental compensation of the judge of that court.

The bill was on the calendar earlier today and was postponed until 4 p.m. today.

The bill was read third time.

Representatives C. Evans and Oakley offered the following amendment to the bill:

Amend **SB 1517** on page 1, between lines 21 and 22, by inserting new Section 4 and 5 to read as follows and by renumbering current Section 4 as Section 5:
SECTION 4. Section 24.188, Government Code, is amended to read as follows:

Sec. 24.188. 86TH JUDICIAL DISTRICT (KAUFMAN COUNTY ~~AND ROCKWALL COUNTIES~~). (a) The 86th Judicial District is composed of Kaufman County ~~and Rockwall counties~~.

(b) The terms of the 86th District Court begin[

~~[(1) in Kaufman County] on the first Mondays in February and July[; and~~

~~[(2) in Rockwall County on the first Mondays in April and October~~

SECTION 5. Section 24.500, Government Code, is amended to read as follows:

Sec. 24.500. 354TH JUDICIAL DISTRICT (HUNT, ~~AND~~ RAINS, ~~AND ROCKWALL COUNTIES~~). (a) The 354th Judicial District is composed of Hunt ~~and~~ Rains, and Rockwall counties.

(b) Section 24.108, relating to the 8th District Court, contains provision applicable to both that court and the 354th District Court.

The amendment was adopted without objection.

A record vote was requested.

SB 1517, as amended, was passed by (Record 479): 138 Yeas, 0 Nays, 0 present, not voting.

Yeas — Agnich; Aikin; Arnold; Barton; Beauchamp; Betts; Blackwood; Blackburn; Burnett; Cain; Carriker; Carter; Cavazos; Ceverha; Clark; Clemons; Colbe; Collazo; Connolly; Cooper; Craddock; Criss; Cuellar, H.; Cuellar, R.; Culberson; Danburg; Delco; Denton; Earley; Eckels; Edge; Edwards; Evans, C.; Evans, I.; Finnell; Garcia; Gavin; Geistweidt; Gibson; Glossbrenner; Granoff; Grusendo; Guerrero; Hackney; Haley; Hammond; Harris, C.(C); Harris, J.; Harris; Hightower; Hilbert; Hill, A.; Hill, P.; Hinojosa; Hollowell; Holzhausen; Hudson, D.; Hudson, S.; Hunter; Hury; Johnson, C.; Johnson, S.; Jones; Kubia; Kuempel; Laney; Larry; Leonard; Lewis, R.; Lucio; Luna, A.; Luna, C.; McDonald; McKinney; McWilliams; Madla; Marchant; Martinez; Melton; Mills; Morales; Moreno, A.; Moreno, P.; Oakley; Ovard; Parker; Patrick; Patronel; Patterson; Pennington; Perez; Perry; Pierce; Polumbo; Price; Rangel; Rep. Richardson; Riley; Roberts; Robinson; Robnett; Russell; Saunders; Schlueter; Schoolcraft; Shaw; Shea; Shelley; Shine; Smith, A.; Smith, R.; Smith, T.; Smith; Staniswalis; Sutton; Tallas; Taylor; Telford; Thompson, G.; Thompson, Toomey; Uher; Valigura; Vowell; Waldrop; Wallace; Warner; Waterfield; Watson; Whaley; Williamson; Willis; Willy; Wilson; Wolens; Wright; Yost.

Present, not voting — Mr. Speaker; Berlanga.

Absent, Excused — Rodriguez.

Absent — Campbell; Dutton; Givens; Heflin; Horn; Rudd; Seidlits; Stil; Watkins.

On motion of Representative R. Smith and by unanimous consent, the caption of **SB 1517** was ordered amended to conform to the body of the bill.

SB 168 ON THIRD READING
(Hinojosa - House Sponsor)

The chair laid before the house on its third reading and final passage,

SB 168, A bill to be entitled An Act relating to the open meetings requirements applicable to governmental bodies; giving private rights of action and access in certain circumstances; defining offenses and providing penalties.

The bill was read third time and was passed.

SB 1075 ON THIRD READING
(Hury - House Sponsor)

The chair laid before the house on its third reading and final passage,

SB 1075, A bill to be entitled An Act relating to fees charged for the preparation of instruments affecting title to real property.

The bill was read third time and was passed. (Repp, Robnett, Marchant, Williamson, and Telford recorded voting no.)

On motion of Representative Hury and by unanimous consent, the caption of **SB 1075** was ordered amended to conform to the body of the bill.

SB 1407 ON THIRD READING
(Aikin and Hightower - House Sponsors)

The chair laid before the house on its third reading and final passage,

SB 1407, A bill to be entitled An Act relating to the issuance of bonds to finance certain state facilities.

The bill was read third time.

Representative Richardson offered the following amendment to the bill:

Amend **SB 1407**, as amended on second reading, by striking all below the enacting clause and substituting the following:

SECTION 1. DEFINITIONS. In this Act:

- (1) "Authority" means the Texas Public Building Authority.
- (2) "Board" means the board of directors of the authority.
- (3) "Review board" means the bond review board.

SECTION 2. REVIEW BOARD. (a) The bond review board is composed of:

- (1) the governor;
- (2) the lieutenant governor;
- (3) the speaker of the house of representatives;
- (4) the state treasurer; and
- (5) the comptroller of public accounts.

(b) The governor is chairman of the review board.

(c) If the speaker of the house of representatives is not permitted by the constitution of this state to serve as a voting member of the board, the speaker serves as a nonvoting member of the board.

(d) Bonds may not be issued under this Act, and proceeds of bonds issued under this Act may not be used to finance a project, unless the issuance or project, as applicable, has been reviewed and approved by the review board.

(e) The review board may adopt rules governing application for review, the review process, and reporting requirements.

(f) A member of the review board may not be held liable for damages resulting from the performance of the member's functions under this Act.

SECTION 3. TEXAS DEPARTMENT OF CORRECTIONS MASTER PLAN. Proceeds of bonds issued under this Act may not be distributed to the Texas Department of Corrections or otherwise used to finance a project of that department unless the department has submitted to the review board a master plan for construction of corrections facilities. The plan must be in the form, contain the information, and cover the period prescribed by the review board.

SECTION 4. GENERAL OBLIGATION BONDS. (a) The authority may issue up to \$500 million in general obligation bonds and distribute bond proceeds to appropriate agencies for use for acquiring, constructing, or equipping new facilities or for major repair or renovation of existing facilities, corrections institutions, including youth corrections institutions, and mental health and mental retardation institutions. The proceeds may be used to refinance an existing obligation for a purpose described by this subsection. The authority may issue general obligation bonds to refund revenue bonds issued under this Act.

(b) The bonds may be issued at a rate of interest, according to the terms, and in a form determined by the authority.

(c) The authority by rule shall establish guidelines, criteria, and procedures for distributions of bond proceeds.

SECTION 5. REVENUE BONDS. (a) The authority may issue revenue bonds and distribute bond proceeds to appropriate agencies for use for acquiring, constructing, or equipping new facilities or for major repair or renovation of existing facilities, corrections institutions, including youth corrections institutions, and mental health and mental retardation institutions. The proceeds may be used to refinance an existing obligation for a purpose described by this subsection.

(b) On issuance of the bonds under this section, the board shall certify to the appropriate agency and to the comptroller of public accounts that the funds are available and shall deposit the bond proceeds in the state treasury to the account of the appropriate agency.

(c) Once the funds are deposited and the comptroller of public accounts has certified that the funds are available, and after transfer of any reserve funds or capitalized interest certified to be reasonably required by the authority and payment of the costs of issuance of the bonds based on a statement by the authority that specifies those costs, the appropriate agency may begin approved projects.

(d) With the concurrence of the board, the state treasurer shall invest the unexpended bond proceeds and the investment income of those unexpended proceeds in investments approved by law for the investment of state funds. Any investment income required for project costs, and not required to be rebated to the federal government or used for debt service, as determined by the board, shall be credited to the appropriate agency. Investment income not required for project costs, and not required to be rebated to the federal government or used for debt service, shall be allocated as provided by Section 3.042, Treasury Act (Article 4393-1, Vernon's Texas Civil Statutes).

(e) The board may provide for the repayment of the principal of and interest on the bonds issued under this section from any source of funds lawfully available to the board. Bonds may not be scheduled to mature during the state fiscal year ending August 31, 1988, or August 31, 1989, and interest on the bonds for that period shall be capitalized and paid from bond proceeds.

(f) From funds appropriated for the purpose, the appropriate agency shall pay to the board pursuant to a lease agreement an amount determined by the board to be sufficient to:

- (1) pay the principal of and interest on the bonds;
- (2) maintain any reserve fund necessary to service the debt; and
- (3) reimburse the authority for other costs and expenses relating to a project or outstanding bonds.

(g) Bonds issued under this section are subject to Sections 13, 14, 15, and 16, Texas Public Building Authority Act (Article 601d, Vernon's Texas Civil Statutes).

(h) A state agency may enter lease agreements in the name of and on behalf of this state and may spend funds appropriated by the legislature for the purpose of making lease payments under this Act. Each state agency shall include in its biennial appropriation request an amount sufficient to pay the principal of and interest on outstanding bonds issued for that agency.

(i) Property financed by the authority under this section shall not become part of other property to which it may be attached or affixed or into which it may be incorporated, regardless of whether the other property is real or personal. The rights of a state agency in property financed by the authority under this section are those of a lessee, and no person claiming under or through such an agency shall acquire any greater rights with respect to that property.

SECTION 6. AMOUNT OF OUTSTANDING BONDS. At any one time, the combined amount of outstanding revenue bonds and outstanding general obligation bonds issued under this Act may not exceed \$500 million.

SECTION 7. AUTHORIZED INVESTMENTS; SECURITY FOR PUBLIC FUNDS. (a) Bonds issued under this Act are a legal and authorized investment for a bank, trust company, savings and loan association, insurance company, fiduciary, trustee, or guardian or a sinking fund of a municipality, county, school district, or political subdivision of the state.

(b) The bonds may secure deposits of public funds of the state, a municipality, a county, a school district, or another political corporation or subdivision of the state. A bond may provide this security up to its value if all unmatured coupons are attached.

SECTION 8. REFUNDING BONDS. The authority may issue bonds to refund all or part of its outstanding bonds issued under this Act, including matured but unpaid interest.

SECTION 9. TAX EXEMPTION. Bonds issued under this Act, transactions relating to the bonds, and profits made in the sale of the bonds are exempt from taxation by the state, an agency or subdivision of the state, a municipality, or a special district.

SECTION 10. AUTHORIZATION. Before the authority may issue and sell bonds under this Act, the legislature by law must have authorized the specific projects in this Act, the General Appropriations Act, or the Texas Public Building Authority Act (Article 601d, Vernon's Texas Civil Statutes).

SECTION 11. AMENDMENT. Sections 4 and 5, Texas Public Building Authority Act (Article 601d, Vernon's Texas Civil Statutes), are amended to read as follows:

Sec. 4. COMPOSITION OF GOVERNING BOARD. The authority is governed by a board of directors composed of ~~six~~ three members appointed by the governor with the advice and consent of the senate. It is the intent of the legislature that the members of the board be selected on the basis of their expertise in matters relevant to the purposes and responsibilities of the authority. To the extent possible, members of the board shall represent all geographical areas of the state.

Sec. 5. TERMS. Members of the board are appointed for staggered terms of six years with two members' terms ~~[one member's term]~~ expiring on February 1 of each odd-numbered year.

SECTION 12. EFFECTIVE DATE. (a) Except as provided by Subsection (b) of this section, this Act takes immediate effect.

(b) Section 4 of this Act takes effect on the date on which the constitutional amendment proposed by S.J.R. No. 56, 70th Legislature, Regular Session, 1987, takes effect. If that amendment is not approved by the voters, that section has no effect.

SECTION 13. EMERGENCY. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended, and that this Act take effect and be in force according to its terms, and it is so enacted.

Representative Hackney offered the following amendment to the Richardson amendment:

Amend the Richardson amendment of **SB 1407** by striking the word "six" on line 10, page 6 and replacing it with the word "three".

Representative Ceverha moved to table the Hackney amendment to the Richardson amendment.

A record vote was requested.

The motion to table prevailed by (Record 480): 84 Yeas, 64 Nays, 1 Present, not voting.

Yeas — Agnich; Arnold; Blackwood; Burnett; Campbell; Carter; Ceverha; Clark; Clemons; Connelly; Cooper; Craddick; Culberson; Eckels; Evans, C.; Finnell; Geistweidt; Givens; Grusendorf; Hammond; Harris, C.(C); Harris, J.; Harrison; Heflin; Hightower; Hilbert; Hill, A.; Hill, P.; Hollowell; Holzheuser; Horn; Hudson, D.; Hunter; Johnson, C.; Johnson, S.; Jones; Kubiak; Kuempel; Laney; Leonard; McWilliams; Marchant; Millsap; Oakley; Ovard; Patrick; Patterson; Pennington; Perry; Pierce; Repp; Richardson; Riley; Roberts; Robinson; Robnett; Rudd; Russell; Saunders; Schlueter; Schoolcraft; Shea; Shelley; Shine; Smith, A.; Smith, R.; Smith, T.; Smithee; Stiles; Tallas; Taylor; Telford; Toomey; Uher; Valigura; Vowell; Waldrop; Waterfield; Whaley; Willis; Willy; Wilson; Wright; Yost.

Nays — Aikin; Barton; Beauchamp; Berlanga; Betts; Blair; Cain; Carriker; Cavazos; Colbert; Collazo; Criss; Cuellar, H.; Cuellar, R.; Danburg; Delco; Denton; Dutton; Earley; Edge; Edwards; Evans, L.; Garcia; Gavin; Gibson; Glossbrenner; Granoff; Guerrero; Hackney; Haley; Hinojosa; Hudson, S.; Hury; Larry; Lewis, R.; Lucio; Luna, A.; Luna, G.; McDonald; McKinney; Madla; Martinez; Melton; Morales; Moreno, A.; Moreno, P.; Parker; Patronella; Perez; Polumbo; Price; Rangel; Seidlits; Shaw; Staniswalis; Sutton; Thompson, G.; Thompson, S.; Wallace; Warner; Watkins; Watson; Williamson; Wolens.

Present, not voting — Mr. Speaker.

Absent, Excused — Rodriguez.

The Richardson amendment was adopted without objection.

(Speaker in the chair)

A record vote was requested.

SB 1407, as amended, was passed by (Record 481): 139 Yeas, 6 Nays, 1 Present, not voting.

Yeas — Agnich; Aikin; Arnold; Barton; Beauchamp; Berlanga; Betts; Blackwood; Blair; Burnett; Cain; Campbell; Carriker; Carter; Cavazos; Ceverha; Clark; Clemons; Colbert; Collazo; Connelly; Cooper; Criss; Cuellar, H.; Cuellar, R.; Culberson; Danburg; Delco; Denton; Dutton; Earley; Eckels; Edwards; Evans, C.; Evans, L.; Finnell; Garcia; Gavin; Gibson; Givens; Glossbrenner; Granoff; Grusendorf; Guerrero; Hackney; Haley; Hammond; Harris, C.;

Harris, J.; Harrison; Heflin; Hightower; Hilbert; Hill, A.; Hill, P.; Hinojosa; Holzheuser; Horn; Hudson, D.; Hudson, S.; Hunter; Hury; Johnson, C.; Johnson, S.; Jones; Kubiak; Kuempel; Laney; Larry; Leonard; Lucio; Luna, A.; Luna, G.; McDonald; McKinney; McWilliams; Madla; Marchant; Martinez; Melton; Millsap; Morales; Moreno, A.; Moreno, P.; Oakley; Ovard; Parker; Patrick; Patronella; Patterson; Pennington; Perez; Perry; Pierce; Pumbo; Price; Rangel; Repp; Richardson; Riley; Roberts; Robnett; Rudd; Russell; Saunders; Schlueter; Schoolcraft; Shaw; Shea; Shelley; Shine; Smith, A.; Smith, R.; Smith, T.; Smithee; Staniswalis; Stiles; Sutton; Tallas; Taylor; Telford; Thompson, G.; Thompson, S.; Toomey; Uher; Valigura; Vowell; Waldrop; Wallace; Warner; Waterfield; Watkins; Watson; Williamson; Willis; Willy; Wilson; Wright; Yost.

Nays — Craddick; Edge; Geistweidt; Hollowell; Robinson; Whaley.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Rodriguez.

Absent — Lewis, R.; Seidlits; Wolens.

On motion of Representative Hackney and by unanimous consent, the caption of **SB 1407** was ordered amended to conform to the body of the bill.

SB 1027 ON THIRD READING
(Gibson - House Sponsor)

The speaker laid before the house on its third reading and final passage,

SB 1027, A bill to be entitled An Act relating to approval of the issuance of state bonds.

The bill was read third time and was passed. (Craddick, Robinson, and Hollowell recorded voting no.)

LEAVE OF ABSENCE GRANTED

The following member was granted leave of absence for the remainder of today because of a death in the family:

Beauchamp on motion of Betts.

SB 967 ON SECOND READING
(T. Smith - House Sponsor)

The speaker laid before the house, in lieu of **HB 1451**, on its second reading and passage to third reading,

SB 967, A bill to be entitled An Act relating to minimum standards for underground water management by and the creation, operation, and financing of underground water districts.

A record vote was requested.

The bill was read second time and failed to pass to third reading by (Record 482): 57 Yeas, 81 Nays, 2 Present, not voting.

Yeas — Agnich; Barton; Berlanga; Betts; Blackwood; Blair; Cain; Cavazos; Ceverha; Colbert; Connelly; Cooper; Danburg; Delco; Denton; Dutton; Edwards; Evans, C.; Evans, L.; Garcia; Glossbrenner; Granoff; Guerrero; Hackney; Hammond; Harris, C.; Hilbert; Hill, P.; Hudson, S.; Hury; Larry; Lucio; Luna, G.; McDonald; Madla; Martinez; Millsap; Morales; Moreno, A.; Moreno, P.; Patronella; Perez; Pumbo; Rangel; Richardson; Saunders;

Smith, T.; Thompson, G.; Thompson, S.; Toomey; Vowell; Wallace; Warn; Waterfield; Watkins; Watson; Wilson.

Nays — Aikin; Arnold; Burnett; Campbell; Carriker; Carter; Clark; Clemor; Collazo; Craddick; Cuellar, R.; Culberson; Earley; Edge; Finnell; Gavi; Geistweidt; Gibson; Givens; Gruscendorf; Haley; Harris, J.; Harrison; Hefli; Hightower; Hill, A.; Hollowell; Hudson, D.; Hunter; Johnson, C.; Johnson, J.; Jones; Kubiak; Kuempel; Laney; Leonard; Lewis, R.; McKinney; McWilliam; Melton; Oakley; Ovard; Parker; Patrick; Patterson; Pennington; Perry; Pierce; Pri; Repp; Riley; Roberts; Robinson; Robnett; Rudd; Russell; Schlueter; Schoolcraft; Shaw; Shea; Shelley; Shine; Smith, A.; Smith, R.; Smithee; Staniswalis; Stil; Sutton; Tallas; Taylor; Telford; Uher; Valigura; Waldrop; Whaley; Williams; Willis; Willy; Wolens; Wright; Yost.

Present, not voting — Mr. Speaker(C); Holzhouser.

Absent, Excused — Beauchamp; Rodriguez.

Absent — Criss; Cuellar, H.; Eckels; Hinojosa; Horn; Luna, A.; Marcha; Seidlits.

HB 1451 - LAID ON THE TABLE SUBJECT TO CALL

Representative T. Smith moved that **HB 1451** be laid on the table subject to call.

The motion prevailed without objection.

HB 528 ON SECOND READING

The speaker laid before the house on its second reading and passage engrossment, the complete committee substitute for **HB 528**.

CSHB 528

A BILL TO BE ENTITLED AN ACT

relating to prohibiting certain lead smelting plants from locating within a certain distance from residences.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 3.27, Texas Clean Air Act (Article 4477-5, Vernon's Texas Civil Statutes), is amended by adding Subsection (k) to read as follows:

(k) The board may not grant a construction permit for a new lead smelting plant at a site located within 3,000 feet of the residence of any individual and which lead smelting operations have not been conducted before the effective date of this subsection. In this subsection, "lead smelting plant" means a facility operated as a smelter for the processing of lead.

SECTION 2. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended, and that this Act take effect and be in force from and after its passage, and it is so enacted.

CSHB 528 was read second time.

Representative S. Hudson offered the following amendment to **CSHB 528**:

Amend **CSHB 528** as follows:

On page 1, insert the following between the first and second sentences of Subsection (k) of Section 3.27 as added by Section 1 of the bill:

This subsection does not apply to a modification of a lead smelting plant in operation on the effective date of this Act, to a new lead smelting plant or modification of a plant with the capacity to produce not more than 200 pounds of lead each hour, or to a lead smelting plant that, when the plant began operation, was located more than 3,000 feet from the nearest residence.

The amendment was adopted without objection.

CSHB 528, as amended, was passed to engrossment.

HB 528 ON THIRD READING

Representative S. Hudson moved that the constitutional rule requiring bills to be read on three several days be suspended and that **HB 528** be placed on its third reading and final passage.

A record vote was requested.

The motion prevailed by (Record 483): 121 Yeas, 13 Nays, 1 Present, not voting.

Yeas — Agnich; Aikin; Arnold; Barton; Berlanga; Betts; Blackwood; Blair; Burnett; Cain; Carriker; Cavazos; Ceverha; Clark; Clemons; Colbert; Collazo; Cooper; Criss; Cuellar, H.; Cuellar, R.; Delco; Denton; Dutton; Earley; Edge; Edwards; Evans, C.; Evans, L.; Finnell; Garcia; Gavin; Gibson; Givens; Glossbrenner; Granoff; Grusendorf; Guerrero; Hackney; Haley; Hammond; Harris, C.; Hightower; Hilbert; Hill, A.; Hinojosa; Hollowell; Holzheuser; Hudson, D.; Hudson, S.; Hunter; Hury; Johnson, C.; Johnson, S.; Jones; Kubiak; Larry; Leonard; Lewis, R.; Lucio; Luna, A.; Luna, G.; McDonald; McKinney; McWilliams; Madla; Marchant; Martinez; Melton; Millsap; Morales; Moreno, A.; Moreno, P.; Oakley; Ovard; Parker; Patrick; Patronella; Patterson; Pennington; Perez; Perry; Pierce; Polumbo; Price; Rangel; Repp; Richardson; Roberts; Robinson; Robnett; Rudd; Russell; Saunders; Schlueter; Schoolcraft; Shaw; Shea; Smith, A.; Smith, R.; Smith, T.; Smithee; Staniswalis; Stiles; Sutton; Tallas; Taylor; Thompson, G.; Thompson, S.; Valigura; Waldrop; Wallace; Warner; Watkins; Watson; Williamson; Willy; Wilson; Wolens; Wright; Yost.

Nays — Carter; Connelly; Craddick; Culberson; Danburg; Harris, J.; Heflin; Kuempel; Riley; Shelley; Telford; Uher; Vowell.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Beauchamp; Rodriguez.

Absent — Campbell; Eckels; Geistweidt; Harrison; Hill, P.; Horn; Laney; Seidlits; Shine; Toomey; Waterfield; Whaley; Willis.

The speaker then laid **HB 528** before the house on third reading and final passage.

The bill was read third time and was passed.

HB 2630 ON SECOND READING

The speaker laid before the house on its second reading and passage to engrossment,

HB 2630, A bill to be entitled An Act relating to liability limits for a health care liability claim.

The bill was read second time and was passed to engrossment. (Danburg recorded voting no; Telford, yes.)

HB 2630 ON THIRD READING

Representative Wright moved that the constitutional rule requiring bills to be read on three several days be suspended and that **HB 2630** be placed on its third reading and final passage.

A record vote was requested.

The motion was lost (not receiving the necessary four-fifths vote) by (Record 484): 109 Yeas, 32 Nays, 1 Present, not voting.

Yeas — Agnich; Aikin; Arnold; Barton; Blackwood; Burnett; Cain; Campbell; Carriker; Ceverha; Clark; Clemons; Colbert; Connelly; Cooper; Craddick; Culberson; Denton; Earley; Eckels; Evans, C.; Finnell; Garcia; Gavin; Geistweidt; Gibson; Givens; Glossbrenner; Granoff; Grusendorf; Guerrero; Haley; Harris, C.; Harris, J.; Harrison; Heflin; Hightower; Hilbert; Hill, A.; Hill, P.; Hollowell; Holzheuser; Horn; Hudson, D.; Hunter; Hury; Johnson, C.; Johnson, S.; Jones; Kubiak; Kuempel; Laney; Leonard; Lewis, R.; McKinney; McWilliams; Madla; Marchant; Melton; Millsap; Morales; Oakley; Ovard; Parker; Patrick; Patterson; Pennington; Pierce; Polumbo; Price; Richardson; Roberts; Robinson; Robnett; Rudd; Russell; Saunders; Schlueter; Schoolcraft; Shaw; Shea; Shelley; Shine; Smith, A.; Smith, R.; Smith, T.; Smithee; Staniswalis; Stiles; Sutton; Tallas; Taylor; Thompson, G.; Toomey; Uher; Valigura; Vowell; Waldrop; Wallace; Waterfield; Watson; Whaley; Williamson; Willis; Willy; Wilson; Wolens; Wright; Yost.

Nays — Berlanga; Betts; Blair; Carter; Cavazos; Collazo; Cuellar, H.; Cuellar, R.; Danburg; Delco; Dutton; Edge; Evans, L.; Hackney; Hinojosa; Larry; Lucio; Luna, A.; Luna, G.; McDonald; Martinez; Moreno, A.; Moreno, P.; Patronella; Rangel; Repp; Riley; Seidlits; Telford; Thompson, S.; Warner; Watkins.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Beauchamp; Rodriguez.

Absent — Criss; Edwards; Hammond; Hudson, S.; Perez; Perry.

HB 1288 - LAID ON THE TABLE SUBJECT TO CALL

Representative Richardson moved that **HB 1288** be laid on the table subject to call.

The motion prevailed without objection.

HB 2623 ON SECOND READING

The speaker laid before the house on its second reading and passage to engrossment,

HB 2623, A bill to be entitled An Act relating to the rate of state contributions to, and an increase in benefits for certain annuitants of, the Teacher Retirement System of Texas.

The bill was read second time.

Representative C. Harris offered the following amendment to the bill:

Amend Section 6 of **HB 2623** by striking "This Act takes" and substituting the following:

"Section 4 and 5 of this Act take"

The amendment was adopted without objection.

HB 2623, as amended, was passed to engrossment. (Jones, A. Smith, Uher, Carriker, Riley, Hinojosa, and Melton recorded voting no; Danburg, Yost, and Waterfield, yes.)

HB 2623 ON THIRD READING

Representatives C. Harris and Denton moved that the constitutional rule requiring bills to be read on three several days be suspended and that **HB 2623** be placed on its third reading and final passage.

A record vote was requested.

The motion prevailed by (Record 485): 129 Yeas, 9 Nays, 2 Present, not voting.

Yeas — Agnich; Aikin; Arnold; Barton; Berlanga; Betts; Blackwood; Blair; Burnett; Cain; Carter; Cavazos; Ceverha; Clark; Clemons; Colbert; Collazo; Connelly; Cooper; Craddick; Cuellar, H.; Culberson; Delco; Denton; Earley; Eckels; Edge; Edwards; Evans, C.; Evans, L.; Finnell; Garcia; Gavin; Geistweidt; Gibson; Givens; Glossbrenner; Granoff; Grusendorf; Guerrero; Hackney; Haley; Hammond; Harris, C.; Harris, J.; Harrison; Hightower; Hilbert; Hill, A.; Hill, P.; Hinojosa; Hollowell; Holzheuser; Horn; Hudson, D.; Hudson, S.; Hunter; Hury; Johnson, C.; Johnson, S.; Jones; Kubiak; Kuempel; Laney; Larry; Leonard; Lewis, R.; Lucio; Luna, A.; Luna, G.; McDonald; McKinney; McWilliams; Madla; Marchant; Martinez; Millsap; Morales; Moreno, A.; Moreno, P.; Oakley; Ovard; Patrick; Patronella; Patterson; Pennington; Perez; Perry; Pierce; Polumbo; Price; Rangel; Repp; Richardson; Roberts; Robinson; Robnett; Russell; Saunders; Schlueter; Schoolcraft; Shea; Shelley; Shine; Smith, A.; Smith, R.; Smithee; Staniswalis; Stiles; Sutton; Tallas; Taylor; Thompson, G.; Thompson, S.; Toomey; Valigura; Vowell; Waldrop; Wallace; Waterfield; Watkins; Watson; Williamson; Willis; Willy; Wilson; Wolens; Wright; Yost.

Nays — Carriker; Cuellar, R.; Danburg; Dutton; Melton; Riley; Telford; Uher; Warner.

Present, not voting — Mr. Speaker(C); Whaley.

Absent, Excused — Beauchamp; Rodriguez.

Absent — Campbell; Criss; Heflin; Parker; Rudd; Seidlits; Shaw; Smith, T.

The speaker then laid **HB 2623** before the house on third reading and final passage.

The bill was read third time and was passed. (Jones, A. Smith, Uher, Carriker, Riley, Hinojosa, and Melton recorded voting no; Danburg, Yost, and Waterfield, yes.)

SB 296 ON SECOND READING

(Granoff - House Sponsor)

The speaker laid before the house on its second reading and passage to third reading.

SB 296, A bill to be entitled An Act relating to sunset review of the Texas Conservation Foundation.

The bill was read second time.

Representative P. Hill offered the following committee amendment to the bill:
COMMITTEE AMENDMENT NO. 1

Amend **SB 296** on page 1, line 11, by changing "1993" to "1991".

Committee Amendment No. 1 was adopted without objection.

SB 296, as amended, was passed to third reading. (A. Smith recorded voting no.)

SB 1371 ON SECOND READING
(C. Evans - House Sponsor)

The speaker laid before the house on its second reading and passage to third reading,

SB 1371, A bill to be entitled An Act relating to minimum standards for long-term care coverage under certain accident and sickness insurance coverage and coverage of health maintenance organizations.

The bill was read second time.

Representative Stiles offered the following amendment to the bill:

Amend **SB 1371** on second reading by adding appropriately numbered sections as follows and renumbering the remaining sections accordingly:

SECTION ____ Section 2, Chapter 397, Acts of the 54th Legislature, Regular Session, 1955 (Article 3.70-2, Vernon's Texas Insurance Code), is amended by adding Subchapter (H) to read as follows:

(H) In this section, "low-dose mammography" means the X-ray examination of the breast using equipment dedicated specifically for mammography, including the X-ray tube, filter, compression device, screens, films, and cassettes, with an average radiation exposure delivery of less than one rad mid-breast, with two views for each breast. Each individual policy or group policy of accident and sickness insurance, including policies issued by companies subject to Chapter 20, Insurance Code, that covers a female 35 years old or older and that is delivered, issued for delivery, or renewed in this state must include coverage in an amount of not less than \$100 for an annual screening by low-dose mammography for the presence of occult breast cancer.

SECTION ____ Article 3.74, Insurance Code, is amended by adding Section 3A to read as follows:

Sec. 3A. COVERAGE FOR MAMMOGRAPHY. (a) In this section, "low-dose mammography" means the X-ray examination of the breast using equipment dedicated specifically for mammography, including the X-ray tube, filter, compression device, screens, films, and cassettes, with an average radiation exposure delivery of less than one rad mid-breast, with two views for each breast.

(b) Each medicare supplement policy delivered, issued for delivery, or renewed in this state must include coverage in an amount of not less than \$100 for an annual screening by low-dose mammography for the presence of occult breast cancer.

The amendment was adopted without objection.

Representative Barton offered the following amendment to the bill:

Amend **SB 1371** by inserting the following sections between Sections 3 and 4 and by renumbering Sections 4 and 5 accordingly:

SECTION 4. Section 7, Chapter 642, Acts of the 66th Legislature, 1979, as amended (Article 4447u, Vernon's Texas Civil Statutes), is amended by adding Subsection (d) to read as follows:

(d) Department rules must require, at a minimum, that before the department may approve an application for a license, other than a renewal or branch office license, the applicant must provide the following information to the department:

(1) documentation establishing that, at a minimum, the applicant has sufficient financial resources to provide the services required by this Act and by the department during the term of the license;

(2) a list of the management personnel for the proposed home health agency, a description of their qualifications, and a plan to provide continuing training and education for the personnel during the term of the license;

(3) documentation establishing that the applicant is capable of meeting the minimum standards relating to quality of care established by the department; and

(4) a plan that provides for the orderly transfer of care of the applicant's clients if the applicant is unable to maintain or deliver home health services under the license.

SECTION 5. Chapter 642, Acts of the 66th Legislature, 1979, as amended (Article 4447u, Vernon's Texas Civil Statutes), is amended by adding Section 7A to read as follows:

Sec. 7A. CORPORATE APPLICANTS. (a) If an applicant for a license, other than a renewal or branch office license, proposes to operate a home health agency through a partnership, corporation, or other business entity that includes members that are not individuals or through a corporation in which any of the stock is owned by another corporation, the applicant must:

(1) establish a corporation under Texas law if the applicant is not a Texas corporation;

(2) allow the department to review the competence and financial resources of any stockholder who holds at least 10 percent of the stock of the Texas corporation;

(3) allow the department to review the history and financial resources of each parent or health-related subsidiary of the Texas corporation;

(4) grant the Texas corporation full authority to operate the home health agency and any subsequent home health agencies for which the applicant may seek licensure under this Act;

(5) disclose to the department any information the department needs to conduct the reviews required by this subsection; and

(6) establish a registered agent as required by Article 2.09, Texas Business Corporation Act, to receive service of process in this state.

(b) The department may not approve the application unless the department is satisfied that approval is justified based on the competence, history, and financial resources of the Texas corporation, each parent or health-related subsidiary of the proposed Texas corporation, and the directors, officers, controlling persons, and principal stockholders of the Texas corporation and any parent or health-related subsidiary of the Texas corporation.

(c) The department may adopt rules implementing this section.

(d) Information received by the department that relates to the competence and financial resources of the applicant is confidential and may not be disclosed to the public.

SECTION 6. Section 8, Chapter 642, Acts of the 66th Legislature, 1979, as amended (Article 4447u, Vernon's Texas Civil Statutes), is amended to read as follows:

Sec. 8. LICENSE FEES. (a) Within the limits prescribed by Subsections (b) and (c) of this section, the [The] board shall set the home health service license fee in an amount that is reasonable to meet the costs of administering this Act.

(b) The board shall set the fee for an initial Class A or Class B license at not less than \$600 nor more than \$1,200.

(c) The board shall set the fee for renewal of a branch office license at not less than \$200 nor more than \$300.

(d) [~~but the fee may not be less than \$300 nor more than \$750 for a Class A or Class B license, nor less than \$100 nor more than \$300 for a branch office license.~~] A fee charged under this section is nonrefundable [~~except as provided by Subsection (b) of this section~~].

The amendment was adopted without objection.

SB 1371, as amended, was passed to third reading.

SB 1355 ON SECOND READING
(Uher - House Sponsor)

The speaker laid before the house on its second reading and passage to third reading,

SB 1355, A bill to be entitled An Act relating to a fee schedule for medical treatment under workers' compensation laws.

The bill was read second time.

Representative Uher offered the following amendment to the bill:

Amend Section 1 of **SB 1355** in Subsection (e) by adding after the word "entity" and before the words "to develop" the following language:
"which includes as an integral part of the review process members of the category of licensee being reviewed"

The amendment was adopted without objection.

Representative Uher offered the following amendment to the bill:

Amend Section 1 of **SB 1355** in Subsection (f) by adding after the word "entity" and before the words "to review" the following language:
"which includes as an integral part of the review process members of the category of licensee being reviewed"

The amendment was adopted without objection.

Representative Uher offered the following amendment to the bill:

Amend Section 1 of **SB 1355** by striking Subsection (j) in its entirety and substituting the following:

(j) The board shall appoint five members to each special advisory committee who are health care providers and are licensees of that provider group who are knowledgeable and qualified in a worker's compensation practice. These members shall be appointed with the advice of the respective professional associations. The Board shall also appoint four members to each advisory committee with one being a representative of the association, one being a representative of the employers, one being a representative of the employees, and one being a representative of the association of attorneys that represent claimants in workers compensation.

The amendment was adopted without objection.

Representative Uher offered the following amendment to the bill:

Amend Section 1 of **SB 1355** by striking Subsection (n) in its entirety and substituting the following language:

(n) The board is authorized to make rules necessary to implement this section including:

(1) the right to charge the association a reasonable fee for access to or evaluation of health care treatment, fees, or charges pursuant to the Act; and

(2) the right to charge the health care provider who overutilizes the guideline and treatment utilization system instituted under this Act a reasonable fee for access to or evaluation of health care treatment, fees or charges pursuant to the Act; and

(3) the right to compel production of documents as related to the board's duties under this section.

The amendment was adopted without objection.

Representative Uher offered the following amendment to the bill:

Amend Section 1 of SB 1355 by adding the following language after the first sentence of Subsection (d) as follows:

"The board shall give due consideration to a relative value scale in developing a guideline for fees and charges for physicians."

The amendment was adopted without objection.

Representative R. Smith offered the following amendment to the bill:

Amend SB 1355 as follows:

On page 1, line 20, add after Paragraph (c)(1) the following:

(3) an internal program of systematic monitoring of medical charges to insure that the guidelines are not exceeded. An annual report shall be made to the legislature which shall indicate the degree to which the fees paid comply with the guidelines.

The amendment was adopted without objection.

SB 1355, as amended, was passed to third reading.

SB 962 ON SECOND READING
(Saunders - House Sponsor)

The speaker laid before the house on its second reading and passage to third reading, the complete committee substitute for SB 962.

CSSB 962

A BILL TO BE ENTITLED
AN ACT

relating to annexation authority of municipalities.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Subsection B-1, Section 7, Municipal Annexation Act (Article 970a, Vernon's Texas Civil Statutes), is amended to read as follows:

B-1. (a) No home rule or general law city may annex any area, whether publicly or privately owned, unless the width of such area at its narrowest point is at least 1,000 [500] feet, except that a city may annex an area that is less than 1,000 [500] feet in width if the corporate limits of the city are contiguous with the property on at least two sides and except that adjacent cities may accomplish mutually agreeable adjustments in their boundaries of areas that are less than 1,000 [500] feet in width. Provided, further, that the prohibition in this section against annexing an area less than 1,000 [500] feet in width shall not apply to any annexation initiated upon written petition of the owner or owners or of a majority of the qualified voters of the area to be annexed or an annexation which abuts or is contiguous to another jurisdictional boundary.

(b) Land on an island bordering on the Gulf of Mexico which is not accessible by public road or common carrier ferry facility may not be annexed by a city, town or village, including a home rule city, without the consent of the owner or owners of such land and notwithstanding the provisions of the Municipal Annexation Act

(Article 970a, Vernon's Texas Civil Statutes), the extraterritorial jurisdiction of a city, town or village, including a home rule city, shall not extend to or cover any such land on any such island without the consent of the owner or owners thereof. A city, town or village, including a home rule city, is also prohibited from taking property on any such island by exercising its power of condemnation or eminent domain.

(c) All annexation proceedings initiated for the purpose of including the site of a state institution or facility within a city are hereby and in all respects validated as of the date of such proceedings.

SECTION 2. The Municipal Annexation Act, as amended (Article 970a, Vernon's Texas Civil Statutes), is amended by adding Section 7c to read as follows:

Sec. 7c. CERTAIN STRIP ANNEXATIONS PROHIBITED. A city may not annex during any one-year period any strip of territory, including a strip following the course of a road, highway, river, stream, or creek, that is, at its narrowest point, less than 1,000 feet in width and is located farther than three miles from the preexisting boundaries of the city. All of the land within the extraterritorial jurisdiction of a city as of April 30, 1987, remains subject to all the provisions of this Act that limit or regulate the extension or creation of any jurisdiction by another municipality, and all mutually agreed extraterritorial jurisdictional boundaries are validated and remain in effect.

SECTION 3. Subsection B, Section 7, Municipal Annexation Act (Article 970a, Vernon's Texas Civil Statutes), is amended to read as follows:

B. A city may annex, for full or limited purposes, in any one calendar year only territory equivalent in size to ten percent (10%) of the total corporate area of such city as of the first day of that calendar year. In computing the total amount of territory which may be annexed in any one (1) calendar year, there shall be excluded from such ten per cent (10%) the following: (1) territory caused to be annexed by a request of a majority of the qualified resident voters in the territory and the owners of fifty per cent (50%) or more of the land in the territory, (2) territory annexed which is owned by the city, the county, the State, or the Federal Government which is used for a public purpose, (3) territory annexed at the request of a majority of the voters residing in such territory, and (4) territory annexed at the request of the owner or owners thereof.

SECTION 4. Subsections A, B, and C, Section 10, Municipal Annexation Act (Article 970a, Vernon's Texas Civil Statutes), are amended to read as follows:

A. Prior to the publication of notice of a hearing required under Section 6 of this Act, the governing body of the city proposing the annexation shall direct its planning or other appropriate department to prepare a service plan that provides for the extension of municipal services into each area to be annexed. For purposes of this Section, providing services includes having services provided by any method or means by which the city extends municipal services to any other area of the city. In no event shall a service plan require the creation of another political subdivision, nor shall a service plan require a landowner in the newly-annexed area to fund the capital improvements necessary to provide such services in a manner inconsistent with the requirements of Senate Bill 336, Acts of the 70th Legislature, unless otherwise agreed to by the landowner.

B. The service plan shall include:

(1) a program under which the city will provide police protection, fire protection, solid waste collection, maintenance of water and waste water facilities, maintenance of roads and streets (including lighting), the maintenance of parks, playgrounds, and swimming pools, and the maintenance of any other publicly owned facility, building, or service within each particular area within sixty (60) days after the effective date of the annexation of that particular area; and

(2) a program under which the city will initiate the acquisition or construction of any capital improvements necessary for providing municipal services adequate to serve the development proposed for the particular area, the construction to begin within two (2) ~~[and one-half (2 1/2)]~~ years of the effective date of the annexation of the particular annexed area, and to be substantially complete within four and one-half years of the effective date of the annexation of the particular annexed area, and the acquisition or construction of the facilities to be accomplished by purchase, lease, or other contract or by the city's succeeding to the powers, duties, assets and obligations of conservation and reclamation districts, as may be authorized or required by law. The construction of the capital improvements required under this subsection shall be accomplished in a continuous process, and shall be completed as soon as reasonably possible, consistent with generally-accepted local engineering and architectural standards and practices; provided, however, the city will be deemed to be in compliance with this subsection if the construction process is interrupted for any reason by circumstances beyond the direct control of the city. The requirement that construction of capital improvements must be substantially completed within four and one-half years shall not apply to a development project or proposed development project within an annexed area if the annexation of the area was initiated by petition or request of the owners of land in the annexed area, and the city and the landowners have mutually agreed in writing that the development project within that area, because of its size or projected manner of development by the developer, is not reasonably expected to be completed within four and one-half years after the annexation. ~~[No moneys received from the sale of bonds or evidenced by other instruments of indebtedness may be allocated to the annexed area for a period of one hundred and eighty (180) days.]~~

C. ~~[(+)]~~ In no event shall a service plan provide fewer services or a lower level of services in the area to be annexed than were in existence in that area at the time immediately preceding the annexation or which are otherwise available in other areas of the city with land uses and population densities similar to those reasonably contemplated or projected by the landowner or developer in the newly-annexed area. However, it is not the intent of this Act to require that a uniform level of services be provided to all areas of the city where differing characteristics of topography, land utilization, and population density are considered as a sufficient basis for providing differing service levels. ~~[Nothing in this Act shall be construed to limit or repeal home rule charter provisions providing for annexation for limited purposes other than ad valorem taxation.]~~

~~[(2) Notwithstanding any other provision of this Act, no city may amend its charter to authorize annexations for limited purposes. Provided, further, the area of a city's extraterritorial jurisdiction may not be extended by any annexations except for full purposes.]~~

~~[(3) Subdivision (2) of this subsection expires June 1, 1987.]~~

SECTION 5. The Municipal Annexation Act (Article 970a, Vernon's Texas Civil Statutes), is amended by adding Article 970c to read as follows:

Art. 970c. LIMITED-PURPOSE ANNEXATION

Sec. 1. APPLICATION TO HOME-RULE CITY. This Act applies to home-rule cities over 225,000 population.

Sec. 2. AUTHORITY TO ANNEX FOR LIMITED PURPOSES. The governing body of a city, if authorized under its home rule charter, by ordinance may annex an area for the limited purposes of applying its planning, zoning, health, and safety ordinances in the area. An area annexed for limited purposes continues to be within the extraterritorial jurisdiction of the city for all purposes. No city may be incorporated in a limited purpose area without the consent of the annexing city. To be annexed for limited purposes, an area must be:

- (1) within a city's extraterritorial jurisdiction; and
- (2) contiguous to the corporate boundaries of the city, at a point where the city's corporate area is wider than 1,000 feet.

Sec. 3. PLANNING REPORT AND REGULATORY PLAN. (a) Before the 10th day before the date of the first hearing required by Section 4 of this Act is held, the city must prepare a report regarding the proposed annexation of an area for limited purposes and make the report available to the public. Notice of the availability of the report shall be published at least twice in a newspaper of general circulation within the area proposed to be annexed. Such notice may not be smaller than one-quarter page of a standard-size or tabloid-size newspaper, and the headline on the notice must be in 18-point or larger type. The report must contain the results of the planning study conducted for the area in accordance with Subsection (b) of this section and must contain the regulatory plan prepared for the area in accordance with Subsection (c) of this section.

(b) The planning study must:

(1) project the kinds and levels of development that will occur in the area in the next 10 years if the area is not annexed for limited purposes and also if the area is annexed for limited purposes;

(2) describe the issues the city considers to give rise to the need for the annexation of the area for limited purposes and the public benefits to result from the limited purpose annexation;

(3) analyze the economic, environmental, and other impacts the annexation of the area for limited purposes will have on the residents, real property owners, and businesses in the area; and

(4) identify the proposed zoning of the area upon annexation and inform the public that any comments regarding the proposed zoning will be considered at the public hearings for the proposed limited purpose annexation.

(c) The regulatory plan must:

(1) identify the kinds of land use and other regulations that will be imposed in the area if it is annexed for limited purposes;

(2) state in the regulatory plan the date upon which the city shall annex the area for full purposes, which date must be within three years after the date the area is annexed for limited purposes. If the city fails to annex the area for full purposes within the prescribed three-year period, any affected person may petition the district court to compel the annexation of the area for full purposes or the deannexation of such area. Upon a finding that the city has failed to annex the area for full purposes within three years following the date the area was annexed for limited purposes, the court shall enter an order requiring the city to annex the area for full purposes or to deannex the area. If an area is deannexed, the area may not be annexed again by the city for five years. The requirement that an area be annexed for full purposes within three years after it has been annexed for limited purposes may be waived and the date for full purpose annexation postponed by mutual written agreement between the city and a majority of the affected landowners.

(d) In each of the three years for which an area may be annexed for limited purposes, the city must take certain prescribed steps toward the full purpose annexation of the area. Failure to meet these planning objectives may render the limited purpose annexation void as provided by Section 12 of this Act.

(1) By the end of the first year after an area is annexed for limited purposes, the city must develop a land use and intensity plan as a basis for services and capital improvements projects planning.

(2) By the end of the second year after an area is annexed for limited purposes, the city must include the area in its long-range financial forecast and must include the area in the city's program to identify future capital improvements projects.

(3) By the end of the third year after an area has been annexed for limited purposes, projects intended to serve the area must be included in the adopted capital improvements program, and must identify potential sources of funding for capital improvements.

Sec. 4. PUBLIC HEARINGS. (a) Before instituting proceedings for annexing an area for limited purposes, the governing body of the city must hold two public hearings on the proposed annexation. Each member of the public who wishes to present testimony or evidence regarding the proposed limited-purpose annexation must be given the opportunity to do so. At the hearing, the city shall hear and consider the appropriateness of the application of ordinances in the area to be annexed for limited purposes.

(b) The hearings must be held on or after the 40th day but before the 20th day before the date the annexation proceedings are instituted. A notice of the hearings must be published in a newspaper of general circulation in the city and in the area proposed for annexation, and the notice must be in the format prescribed by Subsection (a) of Section 3 of this Act. The notice for each hearing must be published at least once on or after the 20th day but before the date of the hearing and must contain:

(1) a statement of the purpose of the hearing;

(2) a statement of the date, time, and place of the hearing; and

(3) a general description of the location of the area proposed to be annexed for limited purposes.

Sec. 5. ADOPTION OF REGULATORY PLAN BY GOVERNING BODY. (a) At the time the governing body of the city adopts an ordinance annexing an area for limited purposes, the governing body must also adopt by ordinance a regulatory plan for the area.

(b) The regulatory plan adopted by the governing body must be the same as the regulatory plan prepared under Subsection (c) of Section 3 of this Act unless the governing body finds and states in the ordinance the reasons for the adoption of a different regulatory plan.

(c) The governing body by ordinance may change a regulatory plan adopted under Subsection (b) of this section, if in the ordinance making the change, the governing body finds and states the reasons for the adoption of the change.

Sec. 6. PERIOD FOR COMPLETION OF ANNEXATION. (a) The annexation of an area for limited purposes must be completed within 90 days after the date the governing body institutes the annexation proceedings.

(b) If a landowner requests full purpose annexation prior to the twentieth day before the ordinance is passed annexing his land for limited purposes, the city shall, in lieu of annexing the land for limited purposes, within six months institute full purpose annexation proceedings.

Sec. 7. EFFECT OF ANNEXATION ON VOTING RIGHTS, ELIGIBILITY FOR OFFICE, AND TAXING AUTHORITY. (a) The qualified voters of an area annexed for limited purposes are entitled to vote in city elections regarding the election or recall of members of the governing body of the city or regarding the amendment of the city charter. The voters may not vote in any bond election. At least five but no more than fifteen days prior to the first election held in which the residents of an area annexed for limited purposes are entitled to vote, the city shall publish notice in the form of a quarter-page advertisement in a newspaper of general circulation in the city notifying such residents that they are eligible to vote in such election, and the location of the polling place(s).

(b) A resident of the area is not eligible to be a candidate for or to be elected to a municipal office.

(c) The city may not impose a tax on any property in an area annexed for limited purposes or on any resident of the area for an activity occurring in the area.

The city may impose reasonable charges, such as building inspection and permit fees, on residents or real property owners for actions or procedures performed by the city in connection with the limited purposes for which the area is annexed.

Sec. 8. EFFECT OF ANNEXATION ON EXTRATERRITORIAL JURISDICTION. The annexation of an area for limited purposes does not extend the city's extraterritorial jurisdiction.

Sec. 9. CONSENSUAL ANNEXATION. The city shall have the authority to annex for limited purposes any property for which the owner of that land has filed with the city a statement evidencing the owner's desire that the land be annexed for limited purposes. The city may annex the land within 150 days after the date the statement is filed with the city, if the proposed limited purpose annexation is approved by the city. With respect to any larger parcels of property, consent of at least 51 percent of the total affected territory represented by the respective property owners must be evidenced by appropriate signatures on the limited purpose annexation request.

Sec. 10. EFFECT OF ANNEXATION ON OTHER GRANTS OF AUTHORITY. This Act does not affect the authority of a city to annex an area for limited purposes under Articles 1183 through 1187, Revised Statutes, or under any other statute granting the authority to annex an area for limited purposes.

Sec. 11. ANNEXATION FOR FULL PURPOSES. On or before the date prescribed by the regulatory plan under Section 3(c)(3) of this Act, the city must annex the area for full purposes.

Sec. 12. ENFORCEMENT. From and after September 1, 1987, any city annexing an area for limited purposes shall take the steps toward full purpose annexation as required in Section 3(d) of this Act. In the event a city fails to take the steps required in Section 3(d), any affected person may petition the district court to compel the annexation of a particular area for full purposes or the deannexation of such area. Upon a finding that the city has failed to take the steps required in Sec. 3(d), the court shall enter an order requiring the city to annex the area for full purposes or to deannex the area.

Sec. 13. CERTAIN STRIP ANNEXATIONS PROHIBITED. A city may not annex for limited purposes any strip of territory, including a strip following the course of a road, highway, river, stream, or creek, that is, at its narrowest point, less than 1,000 feet in width and is located farther than three miles from the preexisting boundaries of the city.

Sec. 14. CERTAIN STRIP ANNEXATIONS DISANNEXED. Any city that has annexed for limited purposes any strip of territory as specified in Section 13 of this article shall annex that territory for full purposes by September 1, 1988. In the event the city fails to annex that territory for full purposes by September 1, 1988, that territory shall be automatically disannexed, and may not be annexed again by the city for five years.

SECTION 6. The provisions of Article 970c as added by this Act apply only to limited purpose annexations completed on or after September 1, 1987.

SECTION 7. Any area annexed for limited purposes prior to September 1, 1987 shall be annexed for full purposes not later than December 31, 1988. If the city fails to complete the annexation of such area for full purposes by December 31, 1988, thereafter any land located in the area shall be disannexed by the city if the owner of the land files with the city a statement of the owner's desire for the land to be disannexed; except that with respect to a platted subdivision, a disannexation statement must be signed by the owners of at least 51 percent of the total territory with the subdivision. Any owner of land annexed for limited purposes prior to September 1, 1987 shall give the city at least ninety (90) days advance notice of his intention to file a statement of his desire to be disannexed from the city. The city shall disannex the land within 30 days after the date the statement is filed with the

city. Any land deannexed pursuant to this section may not be annexed by the city for either full or limited purposes within five years after such deannexation.

SECTION 8. This Act takes effect September 1, 1987.

SECTION 9. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended.

CSSB 962 was read second time.

Representative Saunders offered the following amendment to CSSB 962:

Amend CSSB 962 as follows:

On page 4, lines 18 and 19, delete the phrase "the development proposed" and strike through the word "for" between the words "serve" and "the";

On page 5, lines 26 and 27, delete the words "by the landowner or developer";

On page 6, lines 25 and 26, delete the words "An area annexed for limited purposes continues to be within the extraterritorial jurisdiction of the city for all purposes."

On page 9, line 27, add the words "rural and urban" between the words "of" and "ordinances";

On page 11, line 1, delete the subsection letter "(a)"; and

On page 11, lines 5 through 9, delete all of Subsection (b).

The amendment was adopted without objection.

Representative R. Smith offered the following amendment to CSSB 962:

Amend CSSB 962 by adding the following new SECTIONS 8 and 9 and renumbering existing Sections 8 and 9 accordingly:

SECTION 8. Subsection B, Section 8, Municipal Annexation Act (Article 970a, Vernon's Texas Civil Statutes), is amended to read as follows:

B. (1) No political subdivision having as one of its purposes the supplying of fresh water for domestic or commercial uses or the furnishing of sanitary sewer services, roadways or drainage may be created within the area of the extraterritorial jurisdiction of any city without the written consent of such city granted in accordance with the provisions of this Subsection and the Texas Water Code. The city's consent shall not place any conditions or restrictions on the creation of the district other than those expressly provided in Chapter 54, Subchapter B, Section 54.016(e), Texas Water Code. Should the governing body of such city fail or refuse to grant permission for the creation of such proposed political subdivision upon terms mutually agreeable within ninety (90) [sixty-(60)] days after receipt of a written request for same, a majority of the qualified resident voters in the territory of such proposed political subdivision and the owner or owners of fifty percent (50%) or more of the land in such proposed political subdivision may petition the governing body of such city and request such city to make available to such territory the water and/or sanitary sewer service contemplated by the proposed political subdivision. Should the governing body of the city and a majority of the qualified resident voters and the owner or owners of fifty percent (50%) or more of the land in such proposed political subdivision fail to execute a mutually agreeable contract providing for the water or sanitary sewer service requested within one hundred twenty (120) [six-(6) months] days after receipt of such petition, such failure shall constitute authorization for the creation of the proposed political subdivision insofar as the provisions of this Subsection are concerned. If the city fails or refuses to grant permission for the inclusion of land in a district or to execute a mutually agreeable contract providing for the water or sanitary sewer service requested within the time limits herein, the applicant may petition the Texas Water Commission for

creation of the district or inclusion of the land in a district. The Water Commission shall allow creation of the district or inclusion of the land in a proposed district upon a finding that the City either does not have the reasonable ability to serve or has failed to make a legally binding commitment with sufficient funds available to provide water and wastewater service adequate to serve the proposed development at a reasonable cost to the landowner. Such commitment shall provide that construction of the facilities necessary to serve the land shall be commenced within two years and shall be substantially complete within four and one-half years from the date the petition was filed with the City.

(2) Upon any appeal taken to the district court from the Water Commission's ruling, all parties to the Water Commission hearing shall be made parties to the appeal. The court shall hear the appeal within one hundred and twenty (120) days from the date the appeal is filed. If the case is continued or appealed to a higher court beyond such one hundred and twenty (120) day period, the court shall require the appealing party or party requesting such continuance to post a bond or other adequate security in the amount of damages that may be incurred by any party as a result of such appeal or delay from the Water Commission action. The amount of the bond or other security shall be determined by the court after notice and hearing. Upon final disposition, a court may award damages, including any damages for delays, attorneys fees and costs of court to the prevailing party.

(C) A city shall immediately disannex any land which was annexed for limited purposes and was outside of a city's designated service area prior to the effective date of this Act and which becomes the subject of a valid petition for the creation of a non-city service district as defined in Chapter 54 of the Texas Water Code unless such land is annexed for full purposes by the city prior to October 1, 1987 or the date the petition is filed with the city, whichever is earlier. Such disannexation shall occur upon the filing of such petition. A city shall not thereafter annex the land covered by such petition for full or limited purposes within sixty (60) months of such disannexation.

(D) A city may not unilaterally extend the time periods of this Article through the adoption of preapplication periods or by passage of any rules, resolutions, ordinances, or charter provisions; provided however, the city and the petitioner may jointly petition the Water Commission to request an extension of such time frames. Authorization for the creation of the proposed political subdivision, insofar as the provisions of this Subsection are concerned, shall mean only authorization to initiate proceedings to create such political subdivision as otherwise provided by law. The provisions of this Subsection shall apply only to the area of such proposed political subdivision which lies within the extraterritorial jurisdiction of such city.

(E) If a city annexes a political subdivision for full or limited purposes, and such annexation either precludes or impairs the ability of the district to issue bonds as contemplated by the political subdivision, the city shall, simultaneously with the annexation by the city, pay in cash to the landowner or developer of the political subdivision a sum equal to one-half of all actual costs and expenses incurred by such landowner or developer in connection with the political subdivision which would otherwise have been reimbursable from bond proceeds under the rules and requirements of the Texas Water Commission. ~~[This Subsection shall not apply to any such proposed political subdivision where a valid petition seeking its creation has been filed with the county clerk or other legally designated authority prior to the effective date of this Act.]~~

(F) Subject to the provisions of this subsection, a city may annex a political subdivision for full or limited purposes and the political subdivision, its taxing authority, and its board of directors may continue to exist for a period not to exceed ten (10) years from the date of such annexation; provided, that at the time of such annexation at least ninety percent (90%) of the water, wastewater, roads and

drainage improvements for which district bonds are to be issued have been installed and are complete in accordance with the plans of such political subdivision to serve all of the area within its boundaries.

(G) In addition to any other powers conferred by law, a political subdivision created after January 1, 1985 shall have the power to construct and issue bonds and notes for the design, construction and maintenance of any roadways necessary to serve the existing or proposed development, including developer reimbursement in the same manner as water, wastewater and drainage facilities.

SECTION 9. Chapter 54, Subchapter B, Section 54.016, Subsections (a) through (d), Texas Water Code, is amended to read as follows:

Sec. 54.016. CONSENT OF CITY. (a) No land within the corporate limits of a city or within the extraterritorial jurisdiction of a city shall be included in a district unless the city grants its written consent, by resolution or ordinance, to the inclusion of the land within the district in accordance with the Municipal Annexation Act (Article 970a, Vernon's Texas Civil Statutes) and this Section. The request to a city for its written consent to the creation of a district shall be signed by a majority in value of the holders of title of the land within the proposed district as indicated by the county tax rolls or, if there are more than 50 persons holding title to the land in the proposed district as indicated by the county tax rolls, the request to the city will be sufficient if it is signed by 50 holders of title to the land in the district. A petition for the written consent of a city to the inclusion of land within a district shall describe the boundaries of the land to be included in the district by metes and bounds or by lot and block number, if there is a recorded map or plat and survey of the area, and state the general nature of the work proposed to be done, the necessity for the work, and the cost of the project as then estimated by those filing the petition. If, at the time a petition is filed with a city for creation of a district, the district proposes to connect to a city's water or sewer system, or proposes to contract with a regional water and wastewater provider which has been designated as such by the Texas Water Commission as of the date such petition is filed, to which the city has made a capital contribution for the water and wastewater facilities serving the area, the proposed district shall be designated as a "city service district". If such proposed district does not meet the criteria for a city service district at the time the petition seeking creation is filed, such district shall be designated as a "non-city service district". The city's consent shall not place any restrictions or conditions on the creation of a non-city service district as defined by Chapter 54 of the Texas Water Code other than those expressly provided in subsection (e) of this section and shall specifically not limit the amounts of the district's bonds. A city may not require annexation as a consent to creation of any district. A city shall not refuse to approve a district bond issue for any reason except that the district is not in compliance with valid consent requirements applicable to the district. If a city grants its written consent without the concurrence of the applicant to the creation of a non-city service district containing conditions or restrictions that the petitioning land owner or owners reasonably believe exceed the city's powers, such land owner or owners may petition the Commission to create the district and to modify the conditions and restrictions of the city's consent. The Commission, may declare any provision of the consent to be null and void.

(b) If the governing body of a city fails or refuses to grant permission for the inclusion of land within its extraterritorial jurisdiction in a district within 90 [420] days after receipt of a written request, a majority of the electors in the area proposed to be included in the district or the owner or owners of 50 percent or more of the land to be included may petition the governing body of the city and request the city to make available to the land the water or sanitary sewer service contemplated to be provided by the district.

(c) If the governing body of the city and a majority of the electors or the owner or owners of 50 percent or more of the land to be included in the district fail to execute a mutually agreeable contract providing for the water or sanitary sewer service requested within 120 days ~~[six months]~~ after receipt of the petition, the failure shall constitute authorization for the inclusion of the land in the district under the provisions of this section. Authorization for the inclusion of such land within the district under the provisions of this section shall mean only authorization to initiate proceedings to include the land within the district as otherwise provided by this Act.

(d) The provisions of this section relating to the method of including land in a district without securing the written consent of a city applies only to land within the extraterritorial jurisdiction of a city and does not apply to land within the corporate limits of a city. If the city fails or refuses to grant permission for the inclusion of land in a district or to execute a mutually agreeable contract providing for the water or sanitary sewer service requested within the time limits contained within Subsections (b) or (c), the applicant may petition the Texas Water Commission for creation of the district or inclusion of the land in a district. The Water Commission shall allow creation or inclusion of the land in a proposed district upon a finding that the city either does not have the reasonable ability to serve or has failed to make a legally binding commitment with sufficient funds available to provide water and wastewater service adequate to serve the proposed development at a reasonable cost to the landowner. The commitment shall provide that construction of the facilities necessary to serve the land shall be commenced within two years, and shall be substantially complete within four and one-half years from the date the petition was filed with the city. Upon any appeal taken to the district court from the Water Commission ruling, all parties to the Water Commission hearing shall be made parties to the appeal. The court shall hear the case within one hundred and twenty (120) days from the date the appeal is filed. If the case is continued or appealed to a higher court beyond such one hundred and twenty (120) day period, the court shall require the appealing party in the case of appeal to a higher court or party requesting such continuance to post a bond or other adequate security in the amount of damages that may be incurred by any party as a result of such appeal or delay from the Water Commission action. The amount of the bond or other security shall be determined by the court after notice and hearing. Upon final disposition, a court may award damages, including any damages for delays, attorneys fees and costs of court to the prevailing party. Under no circumstances shall land within the corporate limits of a city be included in a district without the written consent, by ordinance or resolution, of the city. The provisions of this section shall apply whether the land is proposed to be included in the district at the time of creation of a district or to be included by annexation to a district. After the effective date of this act, a district shall not allow the owner of a tract to connect to the district's water or wastewater system unless such tract is a legally subdivided lot which is part of a recorded subdivision plat or is otherwise legally exempt from the subdivision requirements of the applicable governmental authority.

The amendment was adopted without objection.

CSSB 962, as amended, was passed to third reading. (Schlueter recorded voting present, not voting.)

COMMITTEE MEETING ANNOUNCEMENTS

The following committee meetings were announced:

Conference Committee on **HB 23**, 9 a.m., May 30, Room 214, senate reception room, to consider **HB 23**.

Rules and Resolutions, on evening recess today, Desk 67.

RECESS

Representative Watson moved that the house recess until 8 p.m. today.

The motion prevailed without objection.

The house accordingly, at 5:58 p.m., recessed until 8 p.m. today.

NIGHT SESSION

The house met at 8 p.m. and was called to order by the speaker.

MESSAGE FROM THE SENATE

Austin, Texas, May 29, 1987

The Honorable Speaker of the House of Representatives
House Chamber

The Honorable
Mr. Speaker:

I am directed by the Senate to inform the House that the Senate has passed the following:

HCR 217 by Hunter, honoring Hugh Bennett.

Respectfully,
Betty King
Secretary of the Senate

SB 1283 ON SECOND READING
(Haley - House Sponsor)

The speaker laid before the house on its second reading and passage to third reading,

SB 1283, A bill to be entitled An Act relating to the teacher career ladder and the appraisal process.

Representative Grusendorf raised a point a order against further consideration of **SB 1283** on the grounds that the bill violates Rule 4, Section 33(c), Subsection 4 of the House Rules.

The speaker sustained the point of order.

SB 1170 ON SECOND READING
(Geistweidt - House Sponsor)

The speaker laid before the house on its second reading and passage to third reading,

SB 1170, A bill to be entitled An Act relating to the authority of the commissioners court of certain counties to adopt ordinances on various subjects; providing a penalty.

The bill was read second time.

Representative Schlueter offered the following amendment to the bill:

Amend **SB 1170** by adding a new SECTION 3 to read as follows:

SECTION 3. Section 171.063(a), Tax Code, is amended to read as follows:

(a) A nonprofit corporation exempted from the federal income tax under Section 501(c)(3), (4), (5), (6), or (7), of the Internal Revenue Code of 1954, as it existed on January 1, 1975, is exempted from the franchise tax or a corporation exempted under Section 501(c)(2) or (25) of the Internal Revenue Code of 1986, is exempted from the franchise tax, if the corporation or corporations for which it holds title to property is either exempt from or not subject to the franchise tax.

Renumber subsequent sections.

The amendment was adopted without objection.

Representative Schlueter offered the following committee amendment to the bill:

COMMITTEE AMENDMENT NO. 1

Amend **SB 1170** at page 1, line 9 by adding the following:

Surplus includes unrealized, estimated, or contingent losses or obligations or any writedown of assets other than those listed in Subsection (i) of this section, net of appropriate income tax provisions.

Amend **SB 1170** at page 1, line 14 by deleting the following:

"Debt" does not include unrealized, estimated, or contingent losses or obligations or any other writedown of assets.

Amend **SB 1170** at page 1, line 20, by adding, between the words "principles" and "do", the words "are unsettled or".

Committee Amendment No. 1 was adopted without objection.

SB 1170, as amended, was passed to third reading.

SB 882 ON SECOND READING (Barton - House Sponsor)

The speaker laid before the house on its second reading and passage to third reading,

SB 882, A bill to be entitled An Act relating to airport law enforcement officers commissioned as peace officers.

The bill was read second time.

Representative D. Hudson offered the following committee amendment to the bill:

COMMITTEE AMENDMENT NO. 1

Amend **SB 882** in the following manner:

On page 2, subsection (12), line 7, after the word "airport", insert the words "that serves commercial air carriers"

Committee Amendment No. 1 was adopted without objection.

Representative G. Luna offered the following amendment to the bill:

Amend **SB 882**, page 3 by adding the following:

Commission; and

(21) investigators commissioned by a medical examiner and employed by a county or by a medical examiner's district under Article 49.25 of this code.

SECTION 2. Section 3, Article 49.25, Code of Criminal Procedure, is amended to read as follows:

Sec. 3. The medical examiner may, subject to the approval of the commissioners court, employ such deputy examiners, scientific experts.

investigators, field agents, trained technicians, officers and employees as may be necessary to the proper performance of the duties imposed by this Article upon the medical examiner. The medical examiner may, subject to the approval of the commissioners court, commission investigators employed by the medical examiner as peace officers.

SECTION 3. Chapter 546, Acts of the 59th Legislature, Regular Session, 1965 (Article 4413(29aa), Vernon's Texas Civil Statutes), is amended by adding Section 7C to read as follows:

Sec. 7C. PEACE OFFICERS IN A MEDICAL EXAMINER'S OFFICE. A person who on September 1, 1987, has been continuously employed as an investigator in a medical examiner's office for at least one year preceding that date may be licensed as a peace officer, if otherwise qualified, without meeting the minimum educational qualifications required by Commission rule, except that the investigator must complete all preparatory training and examinations in the same manner as any other license applicant.

SECTION 4. This Act takes effect September 1, 1987.

SECTION 5. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended, and that this Act take effect and be in force from and after its passage, and it is so enacted.

The amendment failed of adoption.

Representative Shine offered the following amendment to the bill:

Amend **SB 882** by adding an appropriately numbered section to read as follows:

SECTION _____. Section 46.03(a), Penal Code, is amended to read as follows:

- (a) The provisions of Section 46.02 of this code do not apply to a person:
- (1) in the actual discharge of his official duties as a member of the armed forces or national guard or a guard employed by a penal institution;
 - (2) on his own premises or premises under his control unless he is an employee or agent of the owner of the premises and his primary responsibility is to act in the capacity of a private security guard to protect persons or property, in which event he must comply with Subdivision (5) of this subsection;
 - (3) traveling;
 - (4) engaging in lawful hunting, fishing, or other sporting activity if the weapon is a type commonly used in the activity;
 - (5) who holds a security officer commission issued by the Texas Board of Private Investigators and Private Security Agencies, if:
 - (A) he is engaged in the performance of his duties as a security officer or traveling to and from his place of assignment;
 - (B) he is wearing a distinctive uniform; and
 - (C) the weapon is in plain view; or
 - (6) who is a peace officer, whether or not he is within the geographical area of his authority.

The amendment was adopted without objection.

SB 882, as amended, failed to pass to third reading.

SB 994 ON SECOND READING
(Delco - House Sponsor)

The speaker laid before the house on its second reading and passage to third reading,

SB 994, A bill to be entitled An Act relating to teacher education.

The bill was read second time.

Representative Aikin offered the following committee amendment to the bill:

COMMITTEE AMENDMENT NO. 1

Amend **SB 994** by striking line 23, page 1 and adding the following: "childhood education, special education, or elementary education."

Representative Delco moved to table Committee Amendment No. 1.

The motion to table prevailed.

SB 994 was passed to third reading. (Gibson, Aikin, Telford, and Russell recorded voting no; Arnold, yes.)

SB 1049 ON SECOND READING
(Shea - House Sponsor)

The speaker laid before the house on its second reading and passage to third reading,

SB 1049, A bill to be entitled An Act relating to notice of insurance coverage before acceptance of collision damage waivers under car rental and lease agreements; providing a penalty.

The bill was read second time and was passed to third reading.

SB 1279 ON SECOND READING
(Berlanga - House Sponsor)

The speaker laid before the house on its second reading and passage to third reading,

SB 1279, A bill to be entitled An Act relating to the ability of the state, any political subdivision, or governmental agency to take the safety record of the bidder into consideration when evaluating the acceptance of a bid and giving notice of such consideration to bidders.

The bill was read second time.

Representative Berlanga, et al. offered the following amendment to the bill:

Amend **SB 1279** by adding a new section to be numbered appropriately and to read as follows:

SECTION _____. Article 1941 (a), Revised Statutes, is amended by adding Section 1A to read as follows:

Sec. 1A. OPTICAL DATA STORAGE PROCESS. For the purposes described by Section 1 of this Act, a county clerk, county recorder, or clerk of a county court may adopt and use an optical data storage process for the storage of records by optical disk. This Act applies, to the extent feasible, to the optical data storage process, the optical disk used in that process, and the records stored by that process in a manner equivalent to the manner in which this Act applies to a microfilm process, the film used in that process, and the records stored by that process.

The amendment was adopted without objection.

Representative Vowell offered the following amendment to the bill:

Amend **SB 1279** by renumbering Sections 5 and 6 of the bill as Sections 14 and 15 and by inserting new Sections 5-13 to read as follows:

SECTION 5. Section 1, Bond and Warrant Law of 1931, as amended, (Article 2368a, Vernon's Texas Civil Statutes), is amended to read as follows:

Sec. 1. (a) In this Act:

(1) The word "city" ~~[as used in this Act]~~ shall include all cities and towns incorporated under General or Special Laws, and all cities operating under charter adopted under the provisions of Article 11, Section 5, of the Constitution of Texas, unless especially excepted under the terms of this Act.

(2) The term "governing body" ~~[as used in this Act]~~ shall include the governing body of every city, whether designated as "Board of Aldermen," "City Council," "City Commission," or otherwise.

(3) The ~~[For the purposes of this Act the]~~ term "current funds," shall include money in the treasury, taxes in process of collection during such tax year, and all other revenues which may be anticipated with reasonable certainty during such tax year.

(4) The term "bond funds" shall include money in the treasury already received from the sale of bonds, and the proceeds of bonds theretofore voted but not yet issued and delivered.

(5) The term "time warrant" ~~[as used in this Act]~~ shall include any warrant issued by a city not payable out of current funds.

(6) The term "exempted procurements" shall include any of the following:

(A) ~~[(1)]~~ procurements made in case of public calamity, where it becomes necessary to act at once to appropriate money to relieve the necessity of the citizens or to preserve the property of the city;

(B) ~~[(2)]~~ procurements necessary to preserve or protect the public health or safety of the citizens of the city;

(C) ~~[(3)]~~ procurements made necessary by unforeseen damage to public property, machinery, or equipment;

(D) ~~[(4)]~~ procurements for personal or professional services;

(E) ~~[(5)]~~ procurements for work done and paid for by the day, as such work progresses;

(F) ~~[(6)]~~ the purchase of land or right-of-way; and

(G) ~~[(7)]~~ procurements where the functional requirements of the city can be satisfied by only one source. By way of example without limitation, this provision shall apply to procurements where competition is precluded because of the existence of patents, copyrights, secret processes, or natural monopolies; purchase of films, manuscripts, or books; purchases of electric power, gas, water, and other utility services; and the purchase of captive replacement parts or components for equipment.

(7) The term "high technology procurement" means the procurement of equipment, goods, or services of a highly technical nature, including but not limited to: information processing equipment, software and firmware used in conjunction with information processing equipment, telecommunications equipment, radio and microwave systems, electronic distributed control systems (including building energy management systems) as well as technical services related to such equipment and goods.

(8) The term "separate purchases" means purchases, made separately, of items that in normal purchasing practices would be purchased in one purchase.

(9) The term "sequential purchases" means purchases, made over a period, of items that in normal purchasing practices would be purchased in one purchase.

(10) The term “component purchases” means purchases of the component parts of an item that in normal purchasing practices would be purchased in one purchase.

(b) The short title of this Act shall be “Bond and Warrant Law of 1931.”

(c) Nothing in this Act shall be construed as to affect any bonds or warrants legally issued or authorized to be issued and for which a tax has been levied for the payment of interest and principal thereof, prior to the time when this Act shall become effective and under the laws existing at that time, nor as affecting the matters covered by House Bill No. 981, Acts of the 42nd Legislature, Regular Session, provided that after June 1, 1932, the requirements of this Act with respect to notice, competitive bidding, and a referendum election shall also be complied with by all cities then acting under the provisions of said House Bill No. 981.

SECTION 6. Subsection (h), Section 2, Bond and Warrant Law of 1931, as amended, (Article 2368a, Vernon’s Texas Civil Statutes), is amended to read as follows:

(h) Criminal Penalty; Removal. (1) A city officer or employee who intentionally, knowingly, recklessly, or with criminal negligence [or intentionally] makes or authorizes separate, sequential, or component purchases in order to avoid the competitive bidding requirements of Subsection (a) of this section [Act] commits an offense. The offense is a Class B [C] misdemeanor.

(2) A city officer or employee who intentionally, knowingly, recklessly, or with criminal negligence violates Subsection (a) of this section, other than by conduct described by Subdivision (1) of this subsection, commits an offense. The offense is a Class B misdemeanor.

(3) The final conviction of an officer or employee for an offense under Subdivision (1) or (2) of this subsection results in the immediate removal from office or employment of that person. For four years after the date of the final conviction, the removed officer or employee is ineligible to be a candidate for or to be appointed or elected to a public office in this state, is ineligible to be employed by the city with which the person served when the offense occurred, and is ineligible to receive any compensation through a contract with that city. This subdivision does not prohibit the payment of retirement or workers’ compensation benefits to the removed officer or employee.

(4) A city officer or employee who intentionally or knowingly violates this section, other than by conduct described by Subdivision (1) or (2) of this subsection, commits an offense. The offense is a Class C misdemeanor.

SECTION 7. Section 2, The Certificate of Obligation Act of 1971, as amended, (Article 2368a.1, Vernon’s Texas Civil Statutes), is amended by adding Subdivisions (i), (j), and (k) to read as follows:

(i) “Separate purchases” means purchases, made separately, of items that in normal purchasing practices would be purchased in one purchase.

(j) “Sequential purchases” means purchases, made over a period, of items that in normal purchasing practices would be purchased in one purchase.

(k) “Component purchases” means purchases of the component parts of an item that in normal purchasing practices would be purchased in one purchase.

SECTION 8. Section 6, The Certificate of Obligation Act of 1971, as amended, (Article 2368a.1, Vernon’s Texas Civil Statutes), is amended by adding Subsection (e) to read as follows:

(e) Criminal Penalty; Removal. (1) An officer or employee of an issuer who intentionally, knowingly, recklessly, or with criminal negligence makes or authorizes separate, sequential, or component purchases in order to avoid the competitive bidding requirements of Subsection (a) of this section commits an offense. The offense is a Class B misdemeanor.

(2) An officer or employee of an issuer who intentionally, knowingly, recklessly, or with criminal negligence violates Subsection (a) of this section, other than by conduct described by Subdivision (1) of this subsection, commits an offense. The offense is a Class B misdemeanor.

(3) The final conviction of an officer or employee for an offense under Subdivision (1) or (2) of this subsection results in the immediate removal from office or employment of that person. For four years after the date of the final conviction, the removed officer or employee is ineligible to be a candidate for or to be appointed or elected to a public office in this state, is ineligible to be employed by the issuer with which the person served when the offense occurred, and is ineligible to receive any compensation through a contract with that issuer. This subdivision does not prohibit the payment of retirement or workers' compensation benefits to the removed officer or employee.

(4) An officer or employee of an issuer who intentionally or knowingly violates this section, other than by conduct described by Subdivision (1) or (2) of this subsection, commits an offense. The offense is a Class C misdemeanor.

SECTION 9. Section 2, County Purchasing Act (Article 2368a.5, Vernon's Texas Civil Statutes), is amended by adding Subdivisions (6), (7), and (8) to read as follows:

(6) "Separate purchases" means purchases, made separately, of items that in normal purchasing practices would be purchased in one purchase.

(7) "Sequential purchases" means purchases, made over a period, of items that in normal purchasing practices would be purchased in one purchase.

(8) "Component purchases" means purchases of the component parts of an item that in normal purchasing practices would be purchased in one purchase.

SECTION 10. Section 14, County Purchasing Act (Article 2368a.5, Vernon's Texas Civil Statutes), is amended to read as follows:

Sec. 14. CRIMINAL PENALTY; REMOVAL. (a) A county officer or employee who intentionally, knowingly, recklessly, or with criminal negligence [or intentionally] makes or authorizes separate, sequential, and/or component purchases in order to avoid the competitive bidding requirements of Section 3 of this Act commits an offense. The offense is a Class B misdemeanor ~~[and shall, upon final conviction, result in the immediate removal of the county officer or employee from office].~~

(b) A county officer or employee who intentionally, knowingly, recklessly, or with criminal negligence [or intentionally] violates Section 3 of this Act, other than by conduct described by Subsection (a) of this section, commits an offense. The offense is a ~~[Class C misdemeanor, except that a violation of the competitive bidding requirements under Subsection (a) of this section is a]~~ Class B misdemeanor.

(c) The final conviction of an officer or employee for an offense under Subsection (a) or (b) of this section results in the immediate removal from office or employment of that person. For four years after the date of the final conviction, the removed officer or employee is ineligible to be a candidate for or to be appointed or elected to a public office in this state, is ineligible to be employed by the county with which the person served when the offense occurred, and is ineligible to receive any compensation through a contract with that county. This subsection does not prohibit the payment of retirement or workers' compensation benefits to the removed officer or employee.

(d) A county officer or employee who intentionally or knowingly violates this Act, other than by conduct described by Subsection (a) or (b) of this section, commits an offense. The offense is a Class C misdemeanor.

SECTION 11. Subchapter Z, Chapter 21, Education Code, as amended, is amended by adding Section 21.9011 to read as follows:

Sec. 21.9011. ENFORCEMENT OF PURCHASE PROCEDURES: CRIMINAL PENALTY; REMOVAL. (a) In this section:

(1) "Separate purchases" means purchases, made separately, of items that in normal purchasing practices would be purchased in one purchase.

(2) "Sequential purchases" means purchases, made over a period, of items that in normal purchasing practices would be purchased in one purchase.

(3) "Component purchases" means purchases of the component parts of an item that in normal purchasing practices would be purchased in one purchase.

(b) An officer or employee of a school district who intentionally, knowingly, recklessly, or with criminal negligence makes or authorizes separate, sequential, or component purchases in order to avoid the competitive bidding requirements of Subsection (a) or (b) of Section 21.901 of this code commits an offense. The offense is a Class B misdemeanor.

(c) An officer or employee of a school district who intentionally, knowingly, recklessly, or with criminal negligence violates Subsection (a) or (b) of Section 21.901 of this code, other than by conduct described by Subsection (b) of this section, commits an offense. The offense is a Class B misdemeanor.

(d) The final conviction of an officer or employee of a school district for an offense under Subsection (b) or (c) of this section results in the immediate removal from office or employment of that person. For four years after the date of the final conviction, the removed officer or employee is ineligible to be a candidate for or to be appointed or elected to a public office in this state, is ineligible to be employed by the school district with which the person served when the offense occurred, and is ineligible to receive any compensation through a contract with that school district. This subsection does not prohibit the payment of retirement or workers' compensation benefits to the removed officer or employee.

(e) An officer or employee of a school district who intentionally or knowingly violates Section 21.901 of this code, other than by conduct described by Subsection (b) or (c) of this section, commits an offense. The offense is a Class C misdemeanor.

SECTION 12. Chapter 770, Acts of the 66th Legislature, 1979 (Article 2368a.3, Vernon's Texas Civil Statutes), is amended by adding Section 7A to read as follows:

Sec. 7A. CRIMINAL PENALTY; REMOVAL. (a) In this section:

(1) "Separate purchases" means purchases, made separately, of items that in normal purchasing practices would be purchased in one purchase.

(2) "Sequential purchases" means purchases, made over a period, of items that in normal purchasing practices would be purchased in one purchase.

(3) "Component purchases" means purchases of the component parts of an item that in normal purchasing practices would be purchased in one purchase.

(b) An officer or employee of a governmental entity who intentionally, knowingly, recklessly, or with criminal negligence makes or authorizes separate, sequential, or component purchases in order to avoid the competitive bidding requirements of the statute that requires a contract described by Section 2 of this Act to be awarded on the basis of competitive bids commits an offense. The offense is a Class B misdemeanor.

(c) An officer or employee of a governmental entity who intentionally, knowingly, recklessly, or with criminal negligence violates the competitive bidding requirements of the statute that requires a contract described by Section 2 of this Act to be awarded on the basis of competitive bids, other than by conduct described by Subsection (b) of this section, commits an offense. The offense is a Class B misdemeanor.

(d) The final conviction of an officer or employee of a governmental entity for an offense under Subsection (b) or (c) of this section results in the immediate removal from office or employment of that person. For four years after the date of the final conviction, the removed officer or employee is ineligible to be a candidate for or to be appointed or elected to a public office in this state, is ineligible to be employed by the governmental entity with which the person served when the offense occurred, and is ineligible to receive any compensation through a contract with that governmental entity. This subsection does not prohibit the payment of retirement or workers' compensation benefits to the removed officer or employee.

(e) An officer or employee of a governmental entity who intentionally or knowingly violates this Act, other than by conduct described by Subsection (b) or (c) of this section, commits an offense. The offense is a Class C misdemeanor.

SECTION 13. (a) The change in law made by this Act applies only to punishment and removal for an offense committed on or after the effective date of this Act. For purposes of this section, an offense is committed before the effective date of this Act if any element of the offense occurs before the effective date.

(b) An offense committed before the effective date of this Act is governed by the law in effect when the offense was committed, and the former law is continued in effect for this purpose.

The amendment was adopted without objection.

SB 1279, as amended, was passed to third reading. (Telford recorded voting no.)

SB 865 ON SECOND READING
(R. Lewis - House Sponsor)

The speaker laid before the house on its second reading and passage to third reading.

SB 865, A bill to be entitled An Act relating to the obligation of territory de-annexed or excluded from a rural fire prevention district to pay its pro rata share of the district's debt.

(Blackwood in the chair)

The bill was read second time and was passed to third reading.

SB 1497 ON SECOND READING
(Harrison - House Sponsor)

The chair laid before the house on its second reading and passage to third reading.

SB 1497, A bill to be entitled An Act relating to the regulation of veterinarians; providing criminal and civil penalties.

The bill was read second time.

Representative Harrison offered the following committee amendment to the bill:

COMMITTEE AMENDMENT NO. 1

Amend **SB 1497** in the following manner:

On page 19, line 19, delete Section 23 and renumber subsequent sections accordingly.

Committee Amendment No. 1 was adopted without objection.

Representative Stiles offered the following amendment to the bill:

Amend **SB 1497** as follows:

1. On page 24, line 6, add Sections 24 - 29 to read as follows and renumber the subsequent sections accordingly.

SECTION 24. Subdivision (30), Section 5, Texas Pharmacy Act, as amended (Article 4542a-1, Vernon's Texas Civil Statutes), is amended to read as follows:

(30) "Practitioner" means:

(A) a physician, dentist, podiatrist, veterinarian, or other person licensed registered to prescribe, distribute, administer, or dispense a prescription drug device in the course of professional practice in this state; ~~or~~

(B) a person licensed by another state in a health field in which, under Texas law, licensees in this state may legally prescribe dangerous drugs or a person practicing in another state and licensed by another state as a physician, dentist, veterinarian, or podiatrist, having a current Federal Drug Enforcement Administration registration number, and who may legally prescribe Schedule II, III, IV, or V controlled substances in such other state; or

(C) a person licensed in the Dominion of Canada or the United Mexican States in a health field in which, under the laws of this state, a licensee may legally prescribe dangerous drugs. "Practitioner" does not include a person licensed under this Act.

SECTION 25. Subsection (g), Section 40, Texas Pharmacy Act, as amended (Article 4542a-1, Vernon's Texas Civil Statutes), is amended to read as follows:

(g) No written prescription issued by a practitioner, as such term is defined in ~~Paragraph (A) of Subdivision (30) of~~ Section 5(30)(A) of this Act, may be dispensed unless it is ordered on a form containing two signature lines of equal prominence, side by side, at the bottom of the form. Under either signature line shall be printed clearly the words "product selection permitted," and under the other signature line shall be printed clearly the words "dispense as written." The practitioner shall communicate dispensing instructions to the pharmacist by signing on the appropriate line. If the practitioner's signature does not clearly indicate that the prescription must be dispensed as written, generically equivalent drug selection is permitted. No prescription form furnished a practitioner shall contain a preprinted order for a drug product by brand name, generic name, or manufacturer.

SECTION 26. Subsection (e), Section 2, Chapter 425, Acts of the 56th Legislature, Regular Session, 1959, as amended (Article 4476-14, Vernon's Texas Civil Statutes), is amended to read as follows:

(e) The term "practitioner" means a person licensed:

(1) by the State Board of Medical Examiners, State Board of Dental Examiners, State Board of Podiatry ~~[Chiropractic]~~ Examiners, or [and] State Board of Veterinary Medical Examiners to prescribe and administer dangerous drugs;

(2) by another state in a health field in which, under the laws of this state a licensee may legally prescribe dangerous drugs; or

(3) in the Dominion of Canada or the United Mexican States in a health field in which, under the laws of this state, a licensee may legally prescribe dangerous drugs.

SECTION 27. Section 3, Chapter 425, Acts of the 56th Legislature, Regular Session, 1959, as amended (Article 4476-14, Vernon's Texas Civil Statutes) is amended to read as follows:

Sec. 3. The following acts, the failure to act as hereinafter set forth, and causing of any such act or failure are hereby declared unlawful, except as provided in Section 4:

(a) The delivery or offer of delivery of any dangerous drug unless:

(1) Such dangerous drug is delivered or offered to be delivered by a pharmacist, pursuant to a ~~[upon an original]~~ prescription issued by a practitioner.

as defined by Section 2(e)(1) or (2) of this Act, and there is affixed to the immediate container in which such drug is delivered or offered to be delivered a label bearing the name and address of the pharmacy ~~[owner of the establishment]~~ from which such drug was delivered or offered to be delivered; the date on which the prescription for such drug was dispensed ~~[filled]~~; the number of such prescription as filed in the prescription files of the pharmacy from which the ~~[pharmacist who filled such]~~ prescription was dispensed; the name of the practitioner who prescribed such drug; the name of the patient, and if such drug was prescribed for an animal, a statement showing the species of the animal; and the directions for use of the drug as contained in the prescription; ~~[or]~~

(2) Such dangerous drug is delivered or offered to be delivered by a practitioner in the course of his practice and the immediate container in which such drug is delivered or offered to be delivered bears a label on which appears the date of delivery, the name and strength of the drug, the directions for use of such drug, the name and address of such practitioner, the name of the patient, and, if such drug is prescribed for an animal, a statement showing the species of the animal; or

(3) Such dangerous drug is delivered or offered to be delivered by a pharmacist, pursuant to an original written prescription issued by a practitioner as defined by Section 2(e)(3) of this Act, and a label is affixed to the immediate container in which the drug is delivered or offered to be delivered that bears the name and address of the pharmacy from which the drug was delivered or offered to be delivered; the date on which the prescription for the drug was dispensed; the number of the prescription as filed in the prescription files of the pharmacy from which the prescription was dispensed; the name of the prescribing practitioner; the name of the patient, and if the drug was prescribed for an animal, a statement showing the species of the animal; and the directions for use of the drug as contained in the prescription.

(b) The refilling of any prescription for a dangerous drug, unless and as designated on the prescription by the practitioner, or through authorization by the practitioner at the time of refilling.

(c) The delivery of a dangerous drug upon prescription unless the pharmacist who filled such prescription files and retains it as required in Section 6.

(d) The possession of a dangerous drug by any person unless such person obtained the drug under the specific provision of Section 3(a)(1) and (2) of this Act.

(e) The refusal to make available and to accord full opportunity to check any record or file as required by Section 5 and Section 6.

(f) The failure to keep records as required by Section 5 and Section 6.

(g) The using of any person to his own advantage, or revealing, other than to an officer or employee of the State Board of Pharmacy, or to a court when relevant in a judicial proceeding under this Act, any information required under the authority of Section 6, concerning any method or process which as a trade secret is entitled to protection.

(h) Except as otherwise provided in this Act, the possession for sale of any dangerous drug defined in this Act.

SECTION 28. Chapter 425, Acts of the 56th Legislature, Regular Session, 1959 (Article 4476-14, Vernon's Texas Civil Statutes), is amended by adding Section 3A to read as follows:

Sec. 3A. A pharmacist called on to dispense a dangerous drug pursuant to a prescription issued by a practitioner as defined by Section 2(e)(3) of this Act shall determine, in the exercise of the pharmacist's professional judgment, that the prescription is authentic and was issued pursuant to a valid patient-physician relationship, and that the prescribed drug is considered necessary for the treatment of illness.

SECTION 29. Section 1.05, Article 4414b, Revised Statutes, is amended by adding Subsection (i) to read as follows:

(i)(1) The board may hold public hearings in accordance with the provisions of the Administrative Procedure and Texas Register Act (Article 6252-13a, Vernon's Texas Civil Statutes) to determine whether there is compelling evidence that a dangerous drug as defined in Subsection (a), Section 2, Chapter 425, Acts of the 56th Legislature, Regular Session, 1959, as amended (Article 4476-14, Vernon's Texas Civil Statutes), has been abused by either being prescribed for nontherapeutic purposes or has been abused by the ultimate user. Upon making such a finding, the board may limit the availability of the abused drug to dispensing only upon the prescription of a practitioner as defined in Subdivision (1) or (2), Subsection (e), Section 2, Chapter 425, Acts of the 56th Legislature, Regular Session, 1959 (Article 4476-14, Vernon's Texas Civil Statutes).

(2) If the commissioner of health has compelling evidence that an immediate danger to the public health exists as a result of drugs being prescribed by practitioners as defined in Subdivision (3), Subsection (e), Section 2, Chapter 425, Acts of the 56th Legislature, Regular Session, 1959 (Article 4476-14, Vernon's Texas Civil Statutes), the commissioner may use his or her existing emergency authority to limit such drugs' availability to prescriptions from practitioners defined in Subdivision (1) or (2), Subsection (e), Section 2, of that Act.

The amendment was adopted without objection.

SB 1497, as amended, was passed to third reading.

SB 1533 ON SECOND READING
(Melton - House Sponsor)

The chair laid before the house on its second reading and passage to third reading.

SB 1533, A bill to be entitled An Act relating to the proration of state aid to school districts.

The bill was read second time.

(Speaker in the chair)

Representative Carriker moved that consideration of SB 1533 be postponed until 11 p.m. tonight.

The motion prevailed without objection.

BILLS AND RESOLUTIONS SIGNED BY THE SPEAKER

The speaker signed in the presence of the house, after giving due notice thereof, the following enrolled bills and resolutions:

HB 42, HB 50, HB 141, HB 152, HB 287, HB 354, HB 396, HB 625, HB 637, HB 678, HB 682, HB 744, HB 829, HB 874, HB 875, HB 1052, HB 1180, HB 1318, HB 1325, HB 1354, HB 1368, HB 1432, HB 1440, HB 1647, HB 1714, HB 1739, HB 1963, HB 1964, HB 2002, HB 2011, HB 2060, HB 2109, HB 2250, HB 2417, HB 2511, HB 2530, HB 2537, HB 2544, HB 2551, HB 2558, HB 2565, HB 2566, HB 2568, HB 2579, HB 2580, HB 2581, HB 2621, HCR 176, HCR 182, HCR 183, HCR 231, HCR 235, HJR 35

SB 696 ON SECOND READING
(Haley - House Sponsor)

The speaker laid before the house on its second reading and passage to third reading.

SB 696, A bill to be entitled An Act relating to due process and probationary periods for public school employees.

The bill was read second time.

Representative Givens offered the following amendment to the bill:

Amend **SB 696** by adding a new Section 2 as follows and renumbering appropriately:

SECTION 2. Section 21.204(a), Education Code, is amended to read as follows:

Section 21.204. NOTICE. (a) In the event the board of trustees receives a recommendation for nonrenewal, the board, after consideration of the written evaluations required by Section 21.202 of this subchapter and the reasons for the recommendation, shall, in its sole discretion, either reject the recommendation or shall give the teacher written notice of the proposed nonrenewal on or before May ~~April~~ 1 preceding the end of the employment term fixed in the contract.

The amendment was adopted without objection.

SB 696, as amended, was passed to third reading. (Craddick recorded voting no.)

SB 437 ON SECOND READING
(Wilson - House Sponsor)

The speaker laid before the house on its second reading and passage to third reading.

SB 437, A bill to be entitled An Act relating to the authority of the Texas Housing Agency to issue bonds and to enter into certain agreements.

The bill was read second time.

Representative Shine moved to table **SB 437**.

The motion to table was lost.

Representative Shine raised a point of order against further consideration of **SB 437** on the grounds that the bill violates Rule 4, Section 33 of the House Rules.

The speaker overruled the point of order.

A record vote was requested.

SB 437 was passed to third reading by (Record 486): 77 Yeas, 66 Nays, 1 Present, not voting.

Yeas — Aikin; Arnold; Barton; Berlanga; Betts; Blair; Burnett; Cain; Carriker; Cavazos; Clemons; Colbert; Collazo; Criss; Cuellar, H.; Cuellar, R.; Danburg; Delco; Denton; Dutton; Earley; Edge; Edwards; Evans, C.; Evans, L.; Garcia; Gavin; Gibson; Givens; Glossbrenner; Granoff; Guerrero; Hackney; Haley; Harrison; Hightower; Hinojosa; Hudson, S.; Hunter; Hury; Johnson, C.; Larry; Lewis, R.; Lucio; Luna, A.; Luna, G.; McDonald; McKinney; Madla; Martinez; Melton; Millsap; Morales; Moreno, A.; Moreno, P.; Oakley; Patronella; Perez; Perry; Polumbo; Price; Rangel; Russell; Saunders; Seidlits; Shaw; Stiles; Sutton;

Telford; Thompson, G.; Thompson, S.; Wallace; Watkins; Watson; Willis; Wilson; Wolens.

Nays — Blackwood; Campbell; Carter; Ceverha; Clark; Connelly; Cooper; Craddick; Culberson; Eckels; Finnell; Geistweidt; Grusendorf; Hammond; Harris, C.; Harris, J.; Heflin; Hilbert; Hill, A.; Hill, P.; Hollowell; Holzheuser; Horn; Hudson, D.; Johnson, S.; Jones; Kubiak; Kuempel; Leonard; McWilliams; Marchant; Ovard; Parker; Patrick; Patterson; Pennington; Pierce; Repp; Richardson; Riley; Roberts; Robinson; Robnett; Rudd; Schoolcraft; Shea; Shelley; Shine; Smith, A.; Smith, R.; Smith, T.; Smithee; Staniswalis; Tallas; Taylor; Toomey; Uher; Valigura; Vowell; Waldrop; Warner; Waterfield; Whaley; Willy; Wright; Yost.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Beauchamp; Rodriguez.

Absent — Agnich; Laney; Schlueter; Williamson.

SB 1365 ON SECOND READING
(Agnich - House Sponsor)

The speaker laid before the house on its second reading and passage to third reading, the complete committee substitute for **SB 1365**.

CSSB 1365

A BILL TO BE ENTITLED
AN ACT

relating to the study, selection, and acquisition of disposal sites by the Texas Low-Level Radioactive Waste Disposal Authority.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 3.05(b), Texas Low-Level Radioactive Waste Disposal Authority Act (Article 4590f-1, Vernon's Texas Civil Statutes), is amended to read as follows:

(b) In studying future requirements and relative suitability, the authority and any persons with which it contracts under this section shall consider the following:

(1) the volume of low-level waste generated by type and source categories for the expected life of the site;

(2) geology;

(3) surface characteristics (topography);

(4) other aspects of transportation and access;

(5) meteorology;

(6) population density;

(7) surface and subsurface hydrology;

(8) flora and fauna;

(9) current land use;

(10) criteria established by the agency for site selection;

(11) the proximity to sources of low-level waste, including related transportation costs, to the extent that the proximity and transportation costs do not interfere with selection of a suitable ~~[the best]~~ site for protecting public health and the environment;

(12) other site characteristics as may need study on a preliminary basis that would require detailed study to prepare any application or license required for site operation; and

(13) alternative management techniques, including aboveground isolation facilities, waste processing and reduction both at the site of waste generation and at an authority management site, and waste recycling.

SECTION 2. Section 3.07A, Texas Low-Level Radioactive Waste Disposal Authority Act (Article 4590f-1, Vernon's Texas Civil Statutes), is amended by amending Subsections (a), (d), (e), (f), (g), and (h) and by adding Subsection (i) to read as follows:

(a) In selecting a disposal site, the authority shall give preference to a suitable [If funds are specifically appropriated to the authority to search for and acquire a disposal] site on state-owned land dedicated to the permanent school fund or the permanent university fund[the authority shall give preference to any suitable site on that land] over other equally suitable sites [in selecting a disposal site under Section 3.07 of this Act].

(d) If the board determines that a suitable site can be located on land dedicated to the permanent school fund or the permanent university fund and issues an order selecting that site as the proposed disposal site, the School Land Board or the board of regents of The University of Texas System, as appropriate, shall authorize the authority to enter on the land to conduct a detailed technical characterization of the proposed disposal site. If at the completion of the characterization period and of all studies required by Sections 3.05, 3.06, and 3.07 of this Act, the board determines that the land should be purchased for the proposed disposal site, the School Land Board or the board of regents of The University of Texas System, as appropriate, shall have the land and any minerals in the land appraised and shall sell the land to the authority at the appraised value. The School Land Board or the board of regents of The University of Texas System, as appropriate, shall convey to the authority all title and interest to the surface and minerals in any land sold under this subsection. This subsection applies only to the land actually required for the licensed disposal site. [As an alternative to purchase of fee title to permanent school fund land or permanent university fund land the authority and the commissioner of the General Land Office or the board of regents of The University of Texas System, as appropriate, may enter into either a conveyance that reserves mineral rights to the funds or a long-term lease of all or a portion of the necessary lands for a disposal site. This provision shall apply only if the Congress of the United States has previously determined by enactment of an appropriate resolution or Act that such lease or other alternative arrangement sufficed under the federal Low-Level Radioactive Waste Policy Act to permit Texas to qualify its waste disposal site or sites.]

(e) The authority shall lease from the School Land Board on the School Land Board's terms and conditions the land determined by that board as necessary to serve as a buffer for the disposal site. [Nothing in this Act shall be interpreted as requiring the board of regents of The University of Texas System or the commissioner of the General Land Office to enter into an agreement to sell or lease lands for a disposal site for low-level radioactive waste.]

(f) Any land leased by the authority under Subsection (e) of this section to provide a buffer for the disposal site shall be used by the authority to implement a rangeland and wildlife management plan that applies rangeland and wildlife habitat techniques to enhance the land's natural productivity and economic value.

(g) Before entering into an agreement with the authority for the sale or lease of permanent university fund lands to the authority, the board of regents of The University of Texas System shall enter a finding in its records that the site for low-level radioactive waste disposal to be sold or leased will not interfere with the potential siting of the Superconducting Super Colliding Particle Accelerator Project.

(h) ~~(g)~~ The Texas Board of Health, the commissioner of health, or the Texas Low-Level Radioactive Waste Disposal Authority may not relax any standard for the siting, construction, or operation of the disposal site because such site is located

on state-owned land dedicated to the permanent school fund or the permanent university fund.

(i) [(h)] If the board determines that a suitable site cannot be located on land dedicated to the permanent school fund or the permanent university fund, the authority shall prepare and submit to the governor and the legislature a report listing the land considered and the reasons that none of the land is considered to be suitable.

SECTION 3. Subchapter C, Chapter 51, Natural Resources Code, is amended by adding Section 51.0511 to read as follows:

Sec. 51.0511. SALE OR LEASE OF LAND FOR RADIOACTIVE WASTE DISPOSAL SITE. Section 3.07A of the Texas Low-Level Radioactive Waste Disposal Authority Act (Article 4590f-1, Vernon's Texas Civil Statutes) regarding the sale or lease of permanent school fund land for purposes of a disposal site prevails over Chapters 32, 52, and 53 of this code and the board's rules relating to the sale or lease of permanent school fund land to the extent of any conflict.

SECTION 4. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended, and that this Act take effect and be in force from and after its passage, and it is so enacted.

CSSB 1365 was read second time.

Representative P. Moreno raised a point of order against further consideration of **CSSB 1365** on the grounds that the bill violates Rule 4, Section 33 of the House Rules.

The speaker overruled the point of order.

(S. Johnson in the chair)

Representative Shaw offered the following amendment to **CSSB 1365**:

Amend **CSSB 1365** on page 5 by renumbering existing Sections 3 and 4 as Sections 4 and 5 and add a new Section 3 to read as follows:

SECTION 3. Section 3.20(b), Texas Low-Level Radioactive Waste Disposal Authority Act (Article 4590f-1, Vernon's Texas Civil Statutes), is amended to read as follows:

(b) The board may enter into a contract [~~contracts~~] with a political subdivision or agency of the state [~~persons~~] to perform overall operation [~~in the operation~~] of a disposal site. A [~~but no~~] contract may not include provisions that relieve the authority of its management responsibility under this Act. The board may not enter into such a contract with a private entity. The board shall adopt rules establishing criteria for determining the competence of the political subdivision or agency [~~a person~~] to perform the overall operation of a disposal site [~~in the operation of a disposal site~~].

The amendment was adopted without objection.

Representative Shaw offered the following amendment to **CSSB 1365**:

Amend **CSSB 1365** on page 2, line 20, by inserting between "site" and "can" the following:

At which alternative management techniques that include above ground isolation facilities, waste processing and reduction, and waste recycling will be used.

The amendment was adopted without objection.

Representative Shaw offered the following amendment to **CSSB 1365**:

Amend **CSSB 1365** on page 1, Section 1, subsection b on line 12 by adding the following after the word "site":
Including any wastes that might be generated from the decommissioning of nuclear power plants located in this state.

The amendment was adopted without objection.

Representative Shaw offered the following amendment to **CSSB 1365**:

Amend **CSSB 1365** on page 5 by adding a new Section 3 and renumbering section 3 and 4 as 4 and 5 respectively and Section 3 to read as follows:

SECTION 3. Amend Section 3.26 by adding a new subsection (b)

(b) At least 60 days before the commencement of the 71st session, the authority shall submit to the appropriate committees of the Legislature a report on the volumes and types of radioactive wastes generated by the decommissioning of nuclear power reactors.

The amendment was adopted without objection.

Representative Shaw offered the following amendment to **CSSB 1365**:

Amend **CSSB 1365** on page 1 by adding a new Section 1 and renumbering the following sections accordingly.

Sec. 3.04. (a) The authority shall develop and operate ~~(or contract for operation of)~~ one disposal site for the disposal of low-level waste in Texas.

(b) Each public utility operating or constructing a nuclear power reactor in Texas shall provide storage facilities at the reactor site or in the service area of the utility sufficient to store the low-level radioactive wastes generated by 5 years of normal operations.

The amendment was adopted without objection.

Representative Shaw offered the following amendment to **CSSB 1365**:

Amend **CSSB 1365** on page 1, Section 1 on page 24 by striking the word "a" and inserting the words "the most" before the word "suitable" and also by amending Section 2 on page 2 line 14 by striking the word "a" and inserting the words "the most" before the word "suitable" and also amending Section on line 18 by adding the words "that meet the criteria under 3.05 (b) of this Act" after the word "sites."

(Speaker in the chair)

Representative Agnich moved to table the Shaw amendment.

The motion to table prevailed.

Representative Kubiak offered the following amendment to **CSSB 1365**:

Amend **CSSB 1365** on page 2 line twenty-three (23) by adding the words "for above ground disposal" after the word site.

Representative Agnich moved to table the Kubiak amendment.

A record vote was requested.

The motion to table was lost by (Record 487): 46 Yeas, 98 Nays, 1 Present, not voting.

Yeas — Agnich; Arnold; Berlanga; Betts; Cuellar, H.; Cuellar, R.; Culberson; Earley; Evans, C.; Finnell; Gibson; Givens; Grusendorf; Hammond; Harris, C.; Hilbert; Hollowell; Horn; Hudson, S.; Lewis, R.; Lucio; McKinney; Marchant; Morales; Moreno, A.; Ovard; Patrick; Pennington; Price; Richardson; Riley;

Robnett; Rudd; Russell; Saunders; Shea; Shelley; Shine; Smith, T.; Telford; Toomey; Waterfield; Watson; Willy; Wilson; Wolens.

Nays — Aikin; Barton; Blackwood; Blair; Burnett; Cain; Campbell; Carriker; Carter; Cavazos; Ceverha; Clark; Clemons; Colbert; Collazo; Connelly; Cooper; Craddick; Criss; Danburg; Delco; Denton; Dutton; Eckels; Edge; Edwards; Evans, L.; Garcia; Gavin; Geistweidt; Glossbrenner; Granoff; Guerrero; Hackney; Haley; Harris, J.; Harrison; Heflin; Hightower; Hill, A.; Hill, P.; Hinojosa; Holzheuser; Hudson, D.; Hunter; Hury; Johnson, C.; Johnson, S.; Jones; Kubiak; Kuempel; Laney; Larry; Leonard; Luna, A.; Luna, G.; McDonald; McWilliams; Madla; Martinez; Melton; Moreno, P.; Oakley; Parker; Patronella; Patterson; Perez; Perry; Pierce; Polumbo; Rangel; Repp; Roberts; Robinson; Schlueter; Schoolcraft; Shaw; Smith, A.; Smith, R.; Smithee; Staniswalis; Stiles; Sutton; Tallas; Taylor; Thompson, G.; Thompson, S.; Uher; Valigura; Vowell; Waldrop; Wallace; Warner; Watkins; Whaley; Willis; Wright; Yost.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Beauchamp; Rodriguez.

Absent — Millsap; Seidlits; Williamson.

STATEMENT BY REPRESENTATIVE LUCIO

I was shown voting yes on Record No. 487. I intended to vote no.

Lucio

STATEMENT BY REPRESENTATIVE BERLANGA

I was shown voting yes on Record No. 487. I intended to vote no.

Berlanga

STATEMENT BY REPRESENTATIVE R. CUELLAR

I was shown voting yes on Record No. 487. I intended to vote no.

R. Cuellar

The Kubiak amendment was adopted without objection.

CSSB 1365, as amended, was passed to third reading.

SB 762 ON SECOND READING (Hury - House Sponsor)

The speaker laid before the house on its second reading and passage to third reading.

SB 762, A bill to be entitled An Act relating to the right of the state to appeal in certain criminal cases.

The bill was read second time.

Representative L. Evans offered the following amendment to the bill:

Amend **SB 762** as follows:

On line 7 after the word "state" add "and defendant are", and strike "is".

On line 13 after the word "grants" add "or denies".

On line 14 after the word "sustains" add "or denies".

On line 15 after the word "grants" add "or denies".

Representative Hury moved to table the L. Evans amendment.

The motion to table prevailed. (Danburg recorded voting no.)

Representative Dutton offered the following amendment to the bill:

Amend **SB 762** on page 2 by striking lines 15 through 17 and substituting the following: to release on personal bond.

Representative Hury moved to table the Dutton amendment.

The motion to table prevailed.

SB 762 was passed to third reading. (Dutton, G. Thompson, Danburg, L. Evans, Blair, S. Thompson, and Larry recorded voting no.)

HB 319 ON THIRD READING

The speaker laid before the house on its third reading and final passage,

HB 319, A bill to be entitled An Act relating to the adoption of leasing policies for special events facilities of The University of Texas System component institutions.

The bill was read third time and was passed.

HB 2293 ON THIRD READING

The speaker laid before the house on its third reading and final passage,

HB 2293, A bill to be entitled An Act relating to certain annexations and annexation service requirements.

The bill was read third time and was passed. (Repp recorded voting no.)

HB 1388 ON THIRD READING

The speaker laid before the house on its third reading and final passage,

HB 1388, A bill to be entitled An Act relating to the certification of chemical dependency counselors; providing a criminal penalty.

The bill was read third time and was passed. (Kuempel, Danburg, Craddick, and A. Smith recorded voting no.)

HB 1147 - LAID ON THE TABLE SUBJECT TO CALL

Representative T. Smith moved that **HB 1147** be laid on the table subject to call.

The motion prevailed without objection.

HB 1177 ON THIRD READING

The speaker laid before the house on its third reading and final passage,

HB 1177, A bill to be entitled An Act relating to the providing of accident prevention services on excess policies of professional liability insurance; and declaring an emergency.

The bill was read third time and was passed.

HB 1789 ON THIRD READING

The speaker laid before the house on its third reading and final passage,

HB 1789, A bill to be entitled An Act relating to the cancellation of water rights permits, certified filings, and certificates of adjudication; providing an administrative penalty.

The bill was read third time and was passed. (Russell and Danburg record voting no.)

HB 202 ON THIRD READING

The speaker laid before the house on its third reading and final passage,

HB 202, A bill to be entitled An Act relating to the licensure of state hospita

The bill was read third time and was passed.

HB 220 ON THIRD READING

The speaker laid before the house on its third reading and final passage,

HB 220, A bill to be entitled An Act relating to the regulation of bumpers and suspension systems on certain motor vehicles.

The bill was read third time and was passed. (Heflin and Patterson record voting no.)

HB 1943 ON THIRD READING

The speaker laid before the house on its third reading and final passage,

HB 1943, A bill to be entitled An Act relating to the application of strict liability or liability without negligence to the generation, transmission, distribution, sale or use of electric energy; amending the Revised Civil Statutes of Texas, 1925 as amended by adding a new Article 1436d; prescribing an effective date; and declaring an emergency.

The bill was read third time and was passed. (Danburg recorded voting no.)

HB 1120 ON THIRD READING

The speaker laid before the house on its third reading and final passage,

HB 1120, A bill to be entitled An Act relating to the disposition of certain property and proceeds of property forfeited under the Texas Controlled Substances Act to assist certain prevention and treatment programs.

The bill was read third time.

The speaker postponed consideration of **HB 1120** until 10 a.m. tomorrow.

HB 2343 ON THIRD READING

The speaker laid before the house on its third reading and final passage,

HB 2343, A bill to be entitled An Act relating to regulation by the Public Utility Commission of Texas of fuel cost collection by electric utilities.

The bill was read third time and was passed.

HB 1374 ON THIRD READING

The speaker laid before the house on its third reading and final passage,

HB 1374, A bill to be entitled An Act relating to the sale of wine and to the dispensing of free wine by the holder of a winery permit.

The bill was read third time and was passed. (Repp, D. Hudson, Denton, and Hollowell recorded voting no.)

HB 1308 ON THIRD READING

The speaker laid before the house on its third reading and final passage,

HB 1308, A bill to be entitled An Act relating to regional and area-wide wastewater management systems.

The bill was read third time and was passed.

HB 1829 ON THIRD READING

The speaker laid before the house on its third reading and final passage,

HB 1829, A bill to be entitled An Act relating to the prevention and control of communicable diseases; providing penalties.

The bill was read third time and was passed. (Danburg recorded voting no.)

SB 1533 ON SECOND READING
(Melton - House Sponsor)

The speaker laid before the house, as postponed business, on its passage to third reading,

SB 1533, A bill to be entitled An Act relating to the proration of state aid to school districts.

The bill was read second time earlier today and was postponed until 11 p.m. today.

Representative Connelly raised a point of order against further consideration of **SB 1533** on the grounds that the bill violates Rule 4, Section 11, Subsection 2 and Rule 4, Section 2 of the House Rules.

The speaker sustained the point of order.

SB 233 ON THIRD READING
(Staniswalis - House Sponsor)

The speaker laid before the house on its third reading and final passage,

SB 233, A bill to be entitled An Act relating to the county courts at law of Potter County.

The bill was read third time and was passed.

SB 115 ON THIRD READING
(C. Evans - House Sponsor)

The speaker laid before the house on its third reading and final passage,

SB 115, A bill to be entitled An Act relating to an energy savings program for state agencies and to the organization, powers, and duties of the State Purchasing and General Services Commission; making an appropriation.

The bill was read third time.

Representative Eckels offered the following amendment to the bill:

Amend **SB 115** as follows:

- (1) Strike second reading House Amendment No. 3.
- (2) On page 11, between lines 3 and 4, insert the following:

Sec. 13.10. ENERGY-SAVINGS DEVICES OR MEASURES. A state agency that reduces its energy expenses through the use of energy-savings devices or measures recommended by the energy efficiency division during an audit

conducted under Section 13.08 of this Act may use any funds saved by the agency from appropriated utility expense funds for the installment purchase of the energy-savings devices or measures. The amount of funds spent on the energy-saving devices or measures may not exceed an amount equal to the reduction in the state agency's utility expenses attributable to the use of the energy-savings device or measure. For purposes of this section, "energy-saving device or measure" means a device or measure that directly reduces the energy consumption of a lighting, heating ventilating, or air conditioning system, or other equipment that uses electricity, water, natural gas, fuel oil, or any other energy source.

The amendment was adopted without objection.

SB 115, as amended, was passed.

On motion of Representative C. Evans and by unanimous consent, the caption of **SB 115** was ordered amended to conform to the body of the bill.

SB 954 ON THIRD READING
(Gavin - House Sponsor)

The speaker laid before the house on its third reading and final passage,

SB 954, A bill to be entitled An Act relating to the operation and regulation of fraternal benefit societies.

The bill was read third time and was passed.

SB 408 ON THIRD READING
(A. Moreno - House Sponsor)

The speaker laid before the house on its third reading and final passage,

SB 408, A bill to be entitled An Act relating to plat requirements, regulation and utility services applicable to certain subdivisions of land.

The bill was read third time.

Representative Eckels offered the following amendment to the bill:

On page 3 of House Committee Report **CSSB 408** on line 1-3, delete the sentence beginning with "A city".

The amendment was adopted without objection.

Representative A. Moreno offered the following amendment to the bill:

Amend **SB 408** as follows:

(1) On page 6, between lines 23 and 24, insert a new Section 2 to read as follows:

SECTION 2. Section 5, Chapter 231, Acts of the 40th Legislature, Regular Session, 1927 (Article 974a, Vernon's Texas Civil Statutes), is amended by amending Subsection (d) to read as follows:

(d) Notwithstanding any other provision of this section, the City Planning Commission or other appropriate governing body of a city is authorized to approve and issue an amending plat which is signed by the applicants only, and which is for one or more of the purposes set forth in this subsection ~~(the following Subdivisions (1) through (9), both inclusive)~~, and such approval and issuance shall not require notice, hearing, or approval of other lot owners. This subsection shall apply only if the sole purpose of the amending plat is:

(1) to correct an error in any course or distance shown on the prior plat

- (2) to add any course or distance that was omitted on the prior plat;
 - (3) to correct an error in the description of the real property shown on the prior plat;
 - (4) to indicate monuments set after death, disability, or retirement from practice of the engineer or surveyor charged with responsibilities for setting monuments;
 - (5) to show the proper location or character of any monument which has been changed in location or character or which originally was shown at the wrong location or incorrectly as to its character on the prior plat;
 - (6) to correct any other type of scrivener or clerical error or omission as previously approved by the City Planning Commission or governing body of such city; such errors and omissions may include, but are not limited to, lot numbers, acreage, street names, and identification of adjacent recorded plats;
 - (7) to correct an error in courses and distances of lot lines between two adjacent lots where both lot owners join in the application for plat amendment and neither lot is abolished, provided that such amendment does not attempt to remove recorded covenants or restrictions and does not have a material adverse effect on the property rights of the other owners in the plat;
 - (8) to relocate a lot line in order to cure an inadvertent encroachment of a building or improvement on a lot line or on an easement; ~~or~~
 - (9) to relocate one or more lot lines between one or more adjacent lots where the owner or owners of all such lots join in the application for the plat amendment, provided that such amendment does not:
 - (A) attempt to remove recorded covenants or restrictions; or
 - (B) increase the number of lots; or
 - (10) to make necessary changes to the prior plat to create six or fewer lots in the subdivision or a part of the subdivision covered by the prior plat if:
 - (A) the changes do not affect applicable zoning and other regulations of the city;
 - (B) the changes do not attempt to amend or remove any covenants or restrictions; and
 - (C) the area covered by the changes is located in an area that the City Planning Commission or other appropriate governing body of the city has approved, after a public hearing, as a residential improvement area.
- (2) Renumber the subsequent sections of the bill accordingly.
 - (3) Amend the caption to conform to the body of the bill.

The amendment was adopted without objection.

Representative A. Moreno offered the following amendment to the bill:

Amend **SB 408** by deleting 2nd reading amendment number 9 and on page 2 of the house committee report on lines 21 through 23 delete all new language as amended. (Section 1A(2)).

The amendment was adopted without objection.

Representative Saunders offered the following amendment to the bill:

Amend Amendment No. 2 adopted on second reading by striking the last sentence of the amendment and substituting the following: Provided, however, a city may not impose zoning requirements, including those which regulate the use of any building or property, in any area outside of its corporate limits.

The amendment was adopted without objection.

SB 408, as amended, was passed. (Patterson recorded voting no; Schlucter, present, not voting.)

SB 610 ON THIRD READING
(Perez - House Sponsor)

The speaker laid before the house on its third reading and final passage,

SB 610, A bill to be entitled An Act relating to the transfer of certain trust responsibilities and trust lands of the Alabama-Coushatta and Tigua Indian tribes to the United States Department of the Interior based on the restoration of the federal trust relationship with those tribes.

The bill was read third time and was passed.

SB 560 ON THIRD READING
(Millsap - House Sponsor)

The speaker laid before the house on its third reading and final passage,

SB 560, A bill to be entitled An Act relating to costs incurred by governmental bodies in supplying certain public records.

The bill was read third time.

Representative Millsap offered the following amendment to the bill:

Amend Floor Amendment No. 2 to **SB 560**, adopted on second reading, as follows:

(1) On page 1, line 20, between "for" and "use", insert "immediate".

(2) On page 2, strike lines 3-5 and substitute the following:

"(1) the person requesting the information informs the custodian that he has completed the examination of the information;".

The amendment was adopted without objection.

Representative Horn offered the following amendment to the bill:

Amend **SB 560** by adding the following section in the appropriate place and renumbering the bill accordingly:

SECTION _____. Section 2, Chapter 271, Acts of the 60th Legislature, Regular Session, 1967 (Article 6252-17, Vernon's Texas Civil Statutes), is amended by adding Subsection (r) to read as follows:

(r) This Act does not prohibit the board of regents or other governing body of an institution of higher education, as defined by Section 61.003 of the Education Code, from holding an open or executive meeting by telephone conference call. Each part of a meeting that is required to be open to the public and that is held by a conference call must be available to be heard by the public at the normal meeting place for the board of regents or, in the case of Systems, the board or regents conference room at the System office and must be tape recorded. The tape recording must be made available to the public. A meeting held by conference call is subject to the same notice requirements that apply to other meetings. For purposes of the notice, the place of the meeting by conference call is considered to be the normal meeting place for the board of regents or, in the case of Systems, the board or regents conference room at the System office. Telephone conference calls shall be restricted to special called meetings requiring immediate action when it is otherwise difficult or impossible to convene a quorum of the board of regents in one location.

The amendment was adopted without objection.

SB 560, as amended, was passed.

On motion of Representative A. Moreno and by unanimous consent, the caption of **SB 560** was ordered amended to conform to the body of the bill.

SB 545 ON THIRD READING
(Guerrero - House Sponsor)

The speaker laid before the house on its third reading and final passage,

SB 545, A bill to be entitled An Act relating to the use of certain tools by agricultural laborers in commercial farming operations.

The bill was read third time and was passed. (Repp, Horn, Patterson, and Craddick recorded voting no.)

SB 1081 ON THIRD READING
(P. Hill - House Sponsor)

The speaker laid before the house on its third reading and final passage,

SB 1081, A bill to be entitled An Act relating to registrations and reports filed with the secretary of state concerning communications to influence legislation or administrative action.

The bill was read third time.

Representative Wilson offered the following amendment to the bill:

Amend **SB 1081**, on third reading, by adding a new appropriately numbered section to read as follows and by renumbering the subsequent sections accordingly:

SECTION _____ Title 70, Revised Statutes, is amended by adding Article 4331A to read as follows:

Art. 4331A. COMPUTER INFORMATION

Sec. 1. The secretary of state may establish a system to provide access by electronic data transmittal processes to information that is stored in state computer record banks maintained by the secretary, is not classified as confidential under a statute or court decision, and is not maintained by the secretary under Chapter 421, Acts of the 63rd Legislature, Regular Session, 1973 (Article 6252-9b, Vernon's Texas Civil Statutes); Title 15, Election Code; or Chapter 305, Government Code. The secretary shall set and charge a fee for the access in an amount reasonable and necessary to cover the costs of establishing and administering the system.

Sec. 2. The secretary of state may:

- (1) develop computer software to facilitate the discharge of the constitutional and statutory duties of the office;
- (2) enter agreements to transfer the software on the terms and conditions specified in the agreements; and
- (3) assess a reasonable fee for the transfer.

The amendment was adopted without objection.

Representative P. Hill offered the following amendment to the bill:

Amend **SB 1081** on page 2, after line 51, by renumbering current Sections 4 and 5 as Sections 5 and 6 and by inserting a new Section 4 to read as follows:

SECTION 4. Chapter 421, Acts of the 63rd Legislature, Regular Session, 1973 (Article 6252-9b, Vernon's Texas Civil Statutes), is amended by adding Section 12B to read as follows:

Sec. 12B. INTERPRETATION AND ADMINISTRATION. (a) The secretary of state shall interpret and administer this Act, excluding Sections 6, 7, and 8 of this Act, and shall make the interpretations and administrative rulings available to any person on request.

(b) It is a defense to prosecution under this Act, excluding Sections 6, 7, and 8 of this Act, that the person reasonably relied on a written interpretation or

administrative ruling of the secretary of state relating to the provision of law the person is alleged to have violated.

The amendment was adopted without objection.

SB 1081 - VOTE RECONSIDERED

Representative Wilson moved to reconsider the vote by which the Wilson amendment was adopted.

The motion to reconsider prevailed.

Representative Williamson offered the following amendment to the Wilson amendment:

Amend **SB 1081**, on third reading, by adding a new appropriately numbered section to read as follows and by renumbering the subsequent sections accordingly:
SECTION _____. Title 70, Revised Statutes, is amended by adding Article 4331A to read as follows:

Art. 4331A. COMPUTER INFORMATION

Sec. 1. The secretary of state may establish a system to provide access by electronic data transmittal processes to information that is stored in state computer record banks maintained by the secretary, is not classified as confidential under a statute or court decision, and is not maintained by the secretary under Chapter 421, Acts of the 63rd Legislature, Regular Session, 1973 (Article 6252-9b, Vernon's Texas Civil Statutes); Title 15, Election Code; or Chapter 305, Government Code. The secretary shall set and charge a fee for the access in an amount reasonable and necessary to cover the costs of establishing and administering the system.

Sec. 2. The secretary of state may:

- (1) develop computer software to facilitate the discharge of the constitutional and statutory duties of the office;
- (2) enter agreements to transfer the software on the terms and conditions specified in the agreements; and
- (3) assess a reasonable fee for the transfer.
- (4) provided however, such computer software shall be reviewed and certified by the Automated Information Technology Council.

The amendment was adopted without objection.

The Wilson amendment, as amended, was adopted without objection.

SB 1081, as amended, was passed.

On motion of Representative P. Hill and by unanimous consent, the caption of **SB 1081** was ordered amended to conform to the body of the bill.

SB 1058 ON THIRD READING

(Carter - House Sponsor)

The speaker laid before the house on its third reading and final passage,

SB 1058, A bill to be entitled An Act relating to gifts, grants, and donations made to the Texas Department of Mental Health and Mental Retardation or on behalf of a facility operated by the department.

A record vote was requested.

The bill was read third time and was passed by (Record 488): 140 Yeas, 0 Nays, 1 Present, not voting.

Yeas — Aikin; Arnold; Barton; Berlanga; Betts; Blackwood; Blair; Burnett; Cain; Campbell; Carriker; Carter; Cavazos; Ceverha; Clark; Clemons; Colbert;

Collazo; Connelly; Cooper; Craddick; Criss; Cuellar, H.; Cuellar, R.; Culberson; Danburg; Delco; Denton; Earley; Eckels; Edge; Edwards; Evans, C.; Finnell; Garcia; Gavin; Geistweidt; Gibson; Givens; Glossbrenner; Granoff; Grusendorf; Guerrero; Hackney; Haley; Hammond; Harris, C.; Harris, J.; Harrison; Heflin; Hightower; Hilbert; Hill, A.; Hill, P.; Hinojosa; Hollowell; Holzheuser; Horn; Hudson, D.; Hudson, S.; Hunter; Hury; Johnson, C.; Johnson, S.; Jones; Kubiak; Kuempel; Laney; Larry; Leonard; Lewis, R.; Lucio; Luna, A.; Luna, G.; McKinney; McWilliams; Madla; Marchant; Martinez; Melton; Millsap; Morales; Moreno, P.; Oakley; Ovard; Parker; Patrick; Patronella; Patterson; Pennington; Perez; Perry; Pierce; Polumbo; Price; Rangel; Repp; Richardson; Riley; Roberts; Robinson; Robnett; Rudd; Russell; Saunders; Schlueter; Schoolcraft; Shaw; Shea; Shelley; Shine; Smith, A.; Smith, R.; Smith, T.; Smithee; Staniswalis; Stiles; Sutton; Tallas; Taylor; Telford; Thompson, G.; Thompson, S.; Toomey; Uher; Valigura; Vowell; Waldrop; Warner; Waterfield; Watkins; Whaley; Williamson; Willis; Willy; Wilson; Wolens; Wright; Yost.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Beauchamp; Rodriguez.

Absent — Agnich; Dutton; Evans, L.; McDonald; Moreno, A.; Scidlits; Wallace.

SB 1 ON THIRD READING
(Morales - House Sponsor)

The speaker laid before the house on its third reading and final passage,

SB 1, A bill to be entitled An Act relating to the admissibility of evidence seized pursuant to a governmental action.

The bill was read third time and was passed. (S. Thompson recorded voting no.)

SB 581 ON THIRD READING
(Schlueter - House Sponsor)

The speaker laid before the house on its third reading and final passage,

SB 581, A bill to be entitled An Act relating to unclaimed property; providing penalties.

The bill was read third time and was passed. (Craddick recorded voting no.)

SB 933 ON THIRD READING
(Richardson - House Sponsor)

The speaker laid before the house on its third reading and final passage,

SB 933, A bill to be entitled An Act relating to the regulation of nepotism in government.

The bill was read third time and was passed.

On motion of Representative Richardson and by unanimous consent, the caption of **SB 933** was ordered amended to conform to the body of the bill.

SB 1315 ON THIRD READING
(Berlanga - House Sponsor)

The speaker laid before the house on its third reading and final passage,

SB 1315, A bill to be entitled An Act relating to the creation, organization, administration, and financing of road districts and road utility districts; the

definition of assessed value for property taxation purposes; issuance of bond and tax anticipation notes and the use of the proceeds of such notes; authorizing the levy of taxes.

A record vote was requested.

The bill was read third time and was passed by (Record 489): 123 Yeas, 12 Nays, 1 Present, not voting.

Yeas — Agnich; Aikin; Arnold; Barton; Berlanga; Betts; Blackwood; Blair; Burnett; Cain; Campbell; Carriker; Carter; Cavazos; Ceverha; Clark; Clemons; Colbert; Collazo; Cooper; Criss; Cuellar, H.; Cuellar, R.; Danburg; Delco; Denton; Dutton; Earley; Edge; Edwards; Evans, C.; Evans, L.; Finnell; Garcia; Gavin; Geistweidt; Gibson; Givens; Glossbrenner; Granoff; Grusendorf; Guerrero; Hackney; Hammond; Harris, C.; Harris, J.; Harrison; Heflin; Hightower; Hilbert; Hill, A.; Hinojosa; Hollowell; Holzheuser; Horn; Hudson, D.; Hudson, S.; Hunter; Johnson, C.; Jones; Kuempel; Larry; Leonard; Lewis, R.; Lucio; Luna, A.; Luna, G.; McKinney; McWilliams; Madla; Marchant; Martinez; Melton; Millsap; Morales; Moreno, A.; Moreno, P.; Ovard; Parker; Patrick; Patronella; Pennington; Perez; Perry; Pierce; Polumbo; Price; Rangel; Repp; Richardson; Riley; Roberts; Rudd; Russell; Schlueter; Schoolcraft; Shaw; Shea; Shelley; Shine; Smith, A.; Smith, R.; Smith, T.; Staniswalis; Stiles; Sutton; Tallas; Telford; Thompson, G.; Thompson, S.; Toomey; Valigura; Vowell; Waldrop; Warner; Watkins; Watson; Williamson; Willy; Wilson; Wolens; Wright; Yost.

Nays — Connelly; Craddick; Culberson; Hill, P.; Kubiak; Patterson; Robinson; Robnett; Smithee; Taylor; Uher; Waterfield.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Beauchamp; Rodriguez.

Absent — Eckels; Haley; Hury; Johnson, S.; Laney; McDonald; Oakley; Saunders; Seidlits; Wallace; Whaley; Willis.

On motion of Representative Berlanga and by unanimous consent, the caption of **SB 1315** was ordered amended to conform to the body of the bill.

SB 1083 ON THIRD READING
(Lucio - House Sponsor)

The speaker laid before the house on its third reading and final passage,

SB 1083, A bill to be entitled An Act relating to collection of fees on dishonor of checks given in payment under certain loan agreements.

A record vote was requested.

The bill was read third time and was passed by (Record 490): 129 Yeas, 2 Nays, 1 Present, not voting.

Yeas — Aikin; Arnold; Barton; Berlanga; Betts; Blackwood; Blair; Burnett; Cain; Campbell; Carriker; Carter; Cavazos; Ceverha; Clark; Clemons; Colbert; Collazo; Connelly; Cooper; Craddick; Criss; Cuellar, H.; Cuellar, R.; Culberson; Danburg; Delco; Denton; Earley; Eckels; Edge; Evans, C.; Finnell; Garcia; Gavin; Geistweidt; Gibson; Givens; Glossbrenner; Granoff; Grusendorf; Guerrero; Hackney; Haley; Harris, C.; Harris, J.; Harrison; Heflin; Hightower; Hilbert; Hill, A.; Hill, P.; Hinojosa; Hollowell; Holzheuser; Horn; Hudson, D.; Hudson, S.; Hunter; Hury; Johnson, C.; Johnson, S.; Jones; Kubiak; Kuempel; Larry; Leonard; Lewis, R.; Lucio; Luna, A.; Luna, G.; McKinney; McWilliams; Madla; Marchant; Martinez; Melton; Millsap; Morales; Moreno, A.; Moreno, P.;

Ovard; Parker; Patrick; Patronella; Patterson; Pennington; Perry; Pierce; Polumbo; Price; Rangel; Repp; Richardson; Riley; Roberts; Robinson; Robnett; Rudd; Russell; Schlueter; Schoolcraft; Shaw; Shea; Shelley; Shine; Smith, A.; Smith, T.; Smithee; Staniswalis; Stiles; Sutton; Tallas; Taylor; Telford; Thompson, G.; Toomey; Valigura; Vowell; Waldrop; Warner; Watkins; Watson; Whaley; Willy; Wilson; Wolens; Wright; Yost.

Nays — Thompson, S.; Uher.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Beauchamp; Rodriguez.

Absent — Agnich; Dutton; Edwards; Evans, L.; Hammond; Laney; McDonald; Oakley; Perez; Saunders; Scidlits; Smith, R.; Wallace; Waterfield; Williamson; Willis.

On motion of Representative Lucio and by unanimous consent, the caption of **SB 1083** was ordered amended to conform to the body of the bill.

SB 1265 ON THIRD READING
(Guerrero - House Sponsor)

The speaker laid before the house on its third reading and final passage,

SB 1265, A bill to be entitled An Act relating to voting by and the cancellation of the voter registrations of persons whose names appear on the lists of returned registration certificates.

The bill was read third time and was passed. (R. Smith, Repp, A. Smith, Horn, Marchant, and Craddick recorded voting no.)

SB 543 ON THIRD READING
(Delco - House Sponsor)

The speaker laid before the house on its third reading and final passage,

SB 543, A bill to be entitled An Act relating to reporting of postsecondary academic performance to high schools.

The bill was read third time and was passed. (Heflin recorded voting no.)

SB 403 ON THIRD READING
(Price - House Sponsor)

The speaker laid before the house on its third reading and final passage,

SB 403, A bill to be entitled An Act relating to sanctions that may be ordered by the State Board of Insurance.

A record vote was requested.

The bill was read third time and was passed by (Record 491): 135 Yeas, 2 Nays, 1 Present, not voting.

Yeas — Aikin; Arnold; Barton; Berlanga; Betts; Blackwood; Blair; Burnett; Cain; Campbell; Carriker; Carter; Cavazos; Ceverha; Clark; Clemons; Colbert; Collazo; Connelly; Cooper; Craddick; Criss; Cuellar, H.; Cuellar, R.; Culberson; Danburg; Delco; Denton; Earley; Eckels; Edge; Edwards; Evans, C.; Evans, L.; Finnell; Garcia; Gavin; Geistweidt; Gibson; Givens; Glossbrenner; Granoff; Grusendorf; Guerrero; Hackney; Haley; Hammond; Harris, C.; Harris, J.; Harrison; Heflin; Hightower; Hilbert; Hill, A.; Hill, P.; Hinojosa; Hollowell; Holzheuser; Horn; Hudson, D.; Hudson, S.; Hunter; Hury; Johnson, C.;

Johnson, S.; Jones; Kubiak; Kuempel; Laney; Larry; Leonard; Lewis, R.; Lucio; Luna, A.; McDonald; McKinney; McWilliams; Madla; Marchant; Martinez; Millsap; Morales; Moreno, A.; Moreno, P.; Ovard; Parker; Patrick; Patronella; Patterson; Pennington; Perez; Perry; Pierce; Polumbo; Price; Rangel; Repp; Richardson; Riley; Roberts; Robinson; Robnett; Russell; Schlueter; Schoolcraft; Shaw; Shea; Shelley; Smith, A.; Smith, R.; Smith, T.; Smithee; Staniswalis; Stiles; Sutton; Tallas; Taylor; Telford; Thompson, G.; Thompson, S.; Toomey; Uher; Valigura; Vowell; Waldrop; Waterfield; Watkins; Watson; Whaley; Williamson; Willy; Wilson; Wolens; Wright; Yost.

Nays — Dutton; Rudd.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Beauchamp; Rodriguez.

Absent — Agnich; Luna, G.; Melton; Oakley; Saunders; Seidlits; Shine; Wallace; Warner; Willis.

SB 1439 - POSTPONED

Representative Madla moved that consideration of **SB 1439** be postponed until 9 a.m. tomorrow.

The motion prevailed without objection.

SB 1189 - POSTPONED

Representative A. Moreno moved that consideration of **SB 1189** be postponed until 9 a.m. tomorrow.

The motion prevailed without objection.

SB 120 ON THIRD READING (Horn - House Sponsor)

The speaker laid before the house on its third reading and final passage,

SB 120, A bill to be entitled An Act relating to the offense of involuntary manslaughter involving the use of an airplane, helicopter, or boat while intoxicated, and to the definition of the term "intoxicated" for purposes of the prosecution of that offense.

The bill was read third time and was passed.

SB 269 ON THIRD READING (C. Evans - House Sponsor)

The speaker laid before the house on its third reading and final passage,

SB 269, A bill to be entitled An Act adopting the Texas Theft Liability Act.

The bill was read third time and was passed.

SB 380 ON THIRD READING (Earley - House Sponsor)

The speaker laid before the house on its third reading and final passage,

SB 380, A bill to be entitled An Act relating to the time for filing an application for a residence homestead exemption from ad valorem taxation.

The bill was read third time.

Representative Eckels offered the following amendment to the bill:

Amend **SB 380** by deleting sections below added in amendment 6 on second reading.

SECTION _____. Section 6.41(b), Tax Code, is amended to read as follows:

(b) The board consists of three members. However, the district board of directors by resolution of a majority of its members may increase the size of the appraisal review board to not more than nine members or, in a district established for a county with a population of at least 250,000, to not more than 15 members or, in a district established for a county with a population of at least 500,000, to not more than 30 members or, in a district established for a county with a population of at least 1,500,000, to not more than 45 members.

SECTION _____. Section 6.411, Tax Code, is repealed.

The amendment was adopted without objection.

SB 380, as amended, was passed.

On motion of Representative Earley and by unanimous consent, the caption of **SB 380** was ordered amended to conform to the body of the bill.

SB 551 ON SECOND READING
(Gavin - House Sponsor)

The speaker laid before the house on its second reading and passage to third reading,

SB 551, A bill to be entitled An Act relating to church benefit plans and church benefits boards.

The bill was read second time and was passed to third reading.

SB 1132 ON SECOND READING
(Patrick - House Sponsor)

The speaker laid before the house on its second reading and passage to third reading,

SB 1132, A bill to be entitled An Act relating to the regulation of health maintenance organizations and their agents.

The bill was read second time and was passed to third reading.

SB 1054 ON SECOND READING
(Cavazos - House Sponsor)

The speaker laid before the house on its second reading and passage to third reading,

SB 1054, A bill to be entitled An Act relating to accounting for and reporting certain reinsurance agreements.

The bill was read second time and was passed to third reading.

SB 989 ON SECOND READING
(Gavin - House Sponsor)

The speaker laid before the house on its second reading and passage to third reading,

SB 989, A bill to be entitled An Act relating to the creation of the Surplus Lines Stamping Office of Texas.

The bill was read second time and was passed to third reading.

SB 512 ON SECOND READING**(Aikin - House Sponsor)**

The speaker laid before the house on its second reading and passage to third reading,

SB 512, A bill to be entitled An Act relating to eligibility for late absentee voting by a disabled voter.

The bill was read second time and was passed to third reading.

SB 893 ON SECOND READING**(Perez - House Sponsor)**

The speaker laid before the house on its second reading and passage to third reading,

SB 893, A bill to be entitled An Act relating to the agreement of spouses regarding the right of survivorship in certain community property.

The bill was read second time and was passed to third reading.

SB 873 ON SECOND READING**(Gavin - House Sponsor)**

The speaker laid before the house on its second reading and passage to third reading,

SB 873, A bill to be entitled An Act relating to the liquidation, rehabilitation, reorganization, and conservation of insurers.

Representative Patrick offered an amendment which failed of adoption.

The bill was passed to third reading.

HCR 237 - ADOPTED

Representative Watson, et al. moved that all necessary rules be suspended to take up and consider at this time, **HCR 237**.

The motion prevailed without objection.

The speaker laid before the house the following resolution:

By Watson, et al.:

HCR 237, In memory of former State Representative Steve Burgess.

The resolution was read and was unanimously adopted by a rising vote.

On motion of Representative Watson, the names of all the members of the house were added to **HCR 237** as signers thereof.

SB 229 - REQUEST OF SENATE GRANTED

On motion of Representative Haley, the house granted the request of the senate for the appointment of a conference committee on **SB 229**.

SB 229 - APPOINTMENT OF CONFERENCE COMMITTEE

The speaker announced the appointment of the following conference committee, on the part of the house, on **SB 229**: Haley, chair; Guerrero, Hollowell, Tallas, and A. Luna.

ADJOURNMENT

Representative Watson moved that the house adjourn until 10 a.m. tomorrow, in memory of former State Representative, Steve Burgess.

The motion prevailed without objection.

The house accordingly, at 12:07 a.m., adjourned until 10 a.m. tomorrow.

APPENDIX

STANDING COMMITTEE REPORTS

Favorable reports have been filed by committees on bills and resolutions, as follows:

Business and Commerce - SB 1355, SB 1495

County Affairs - SB 962

Environmental Affairs - HB 1419

Financial Affairs - SB 1480

Government Organization - SB 296

Natural Resources - SB 670, SB 671, SB 672, SB 673, SB 1453

Public Education - SCR 114

Public Health - SB 623, SB 1079, SB 1165

Rules and Resolutions - HR 567, HR 569, HR 575, HR 592, HR 597, HR 598, HR 599, HR 602, HR 603, HR 606, HR 609, HR 611, HR 612, HR 613, HR 614, HR 616, HR 622, HR 623, HR 625, HR 627, HR 628, HR 629, HR 631, HR 632, HR 636, HR 637, HR 638, SCR 137

Urban Affairs - SB 1475, SB 1536

Ways and Means - SB 1532

ENROLLED

May 27 - HB 162, HB 278, HB 306, HB 309, HB 578, HB 624, HB 723, HB 788, HB 1488, HB 1710, HB 1820, HB 1960, HB 2031, HB 2079, HB 2400, HB 2466, HB 2151, HB 2165, HB 2514, HB 570, HB 471, HB 353, HB 250, HB 280, HB 824, HB 1911, HB 2050, HB 2351, HB 1384, HB 59, HB 83, HB 631, HB 655, HB 682, HB 975, HB 1079, HB 1356, HB 1632, HB 1642, HB 1758, HB 1865, HJR 2

May 28 - HB 1739, HB 1963, HB 2579, HB 2580, HB 2581, HB 141, HB 287, HB 354, HB 2011, HB 2250, HB 42, HB 50, HB 152, HB 396, HB 625, HB 678, HB 744, HB 829, HB 874, HB 875, HB 1052, HB 1180, HB 1354, HB 1432, HB 1647, HB 1714, HB 1964, HB 2002, HB 2060, HB 2417, HB 2511, HB 2530, HB 2537, HB 2544, HB 2551, HB 2558, HB 2565, HB 2566, HB 2568, HB 2621, HB 1325, HB 1368, HB 637, HB 1318, HB 2109, HB 1440, HCR 176, HCR 183, HCR 182, HCR 231, HCR 235, HJR 35

SENT TO THE GOVERNOR

May 29 - HB 855, HB 1874, HB 77, HB 81, HB 142, HB 160, HB 168, HB 175, HB 203, HB 249, HB 312, HB 313, HB 359, HB 366, HB 372, HB 449, HB 484, HB 550, HB 575, HB 576, HB 577, HB 669, HB 680, HB 697, HB 710, HB 715, HB 737, HB 798, HB 806, HB 813, HB 877, HB 924, HB 1018, HB 1154, HB 1210, HB 1231, HB 1239, HB 1270, HB 1293, HB 1311, HB 1315, HB 1360, HB 1363, HB 1503, HB 1543,

**HB 1561, HB 1587, HB 1621, HB 1637, HB 1678, HB 1685, HB 1709,
HB 1728, HB 1847, HB 1870, HB 1881, HB 2036, HB 2087, HB 2095,
HB 2101, HB 2106, HB 2123, HB 2136, HB 2164, HB 2273, HB 2329,
HB 2345, HB 2363, HB 2392, HB 2462, HB 2504, HB 2508, HB 2510,
HB 2515, HB 2517, HB 2526, HB 2528, HB 2532, HB 2539, HB 2542,
HB 2549, HB 2595, HCR 66, HCR 80, HCR 96, HCR 149**

COAUTHORS AUTHORIZED

The following members were granted permission by the authors to sign resolutions as coauthors:

HR 587 - Repp

HR 708 - Seidlits, Riley, Watson, Aikin